

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH  
CIRCUIT COURT SITTING AT INDORE

Original Application No. 1076 of 2004

Jabalpur, this the 24<sup>th</sup> day of August, 2005

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri Madan Mohan, Judicial Member

Ashok Joshi, aged about 47 years,  
S/o. Shri Dinkar Rao Joshi, Presently  
working as Assistant Programmer,  
Employees Provident Fund Organisation,  
Regional Office, 7 Race Course Road,  
IDA Building, Indore (Madhya Pradesh). ... Applicant

(By Advocate - Shri S. Nagu)

V e r s u s

1. Union of India, through Secretary, Ministry of Labour, Shram Shakti Bhawan, Rafi Marg, New Delhi.
2. Central Board of Trustees, through Chairman, Employees Provident Fund Organisation, Headquarters Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi - 110066.
3. Central Provident Fund Commissioner, Employees Provident Fund Organisation, Headquarters Bhavishya Nidhi Bhawan, 14, Bhikaji Cama Place, New Delhi-110066.
4. Regional Provident Fund Commissioner, Employees Provident Fund Organisation, Regional Office, 7 Race Course Road, IDA Building, Indore (MP). ... Respondents

(By Advocate - Shri Harshit Patel on behalf of Shri S.C. Sharma)

O R D E R

By M.P. Singh, Vice Chairman -

By filing this Original Application the applicant has claimed the following main reliefs :

"A. to direct the respondents to regularise the applicant on the post of Computer Supervisor (1600-2660-5500-9000), w.e.f. 25.2.1995 with all consequential benefits including the fixation of seniority etc.,

B. to direct the respondents to consider and regularise the applicants services on the post of Assistant Programmer (6500-10,500) against the vacant promotion quota under Para 12 (ii) (b) & (c) with all consequential benefits of pay fixation, fixation of seniority, arrears of salary etc.

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C. to direct the respondents to consider the applicants case for promotion to the next higher posts of Assistant Director (Information Technology) Computers, w.e.f. from the date the applicant becomes eligible to be promoted by way of deputation/any other mode prescribed under the Recruitment Rules, which provides for the rendering of services of 3 years as an Assistant Programmer to become entitled to be considered for appointment of Assistant Director (Information Technology) Computers on deputation and promoting the applicant if found fit with all consequential benefits."

2. The brief facts of the case as stated by the applicant are that the applicant was initially appointed as Lower Division Clerk on 6th October, 1981. He was promoted as Upper Division Clerk in the year 1983 and was further promoted as Section Supervisor (1400-2300-5000-8000) in February, 1992. Thereafter he was ~~promoted~~ appointed as Computer Supervisor in the scale of 1600-2660 (pre-revised) on deputation basis vide order dated 23rd February, 1995. The applicant was further appointed as Assistant Programmer on/deputation basis in the grade of Rs. 6500-10500/- for a period of three years vide order dated 27th April, 2001. According to the applicant the recruitment rules inter alia provides for holder of the post in the grade of 1600-2660/- (pre-revised) to be eligible for promotion to the post of Assistant Programmer (Rs. 6500-10500/-) under the promotion quota. The applicant has become eligible for consideration for promotion under the recruitment rules to the higher post of Assistant Programmer. The applicant has submitted his application for absorption on the post of Computer Supervisor under one time relaxation scheme dated 20.5.1998, on 29th May, 1998. But no decision has been taken on the same, by the respondents. Hence, this Original Application is filed.

3. The respondents in their reply <sup>vc</sup> has stated that the applicant does not hold the requisite qualifications for the posts of Supervisor (Computer Cell) and Assistant Programmer under the recruitment rules. Therefore, the question of



granting him regular appointment against the promotion quota does not arise. According to the respondents the post of Assistant Programmer has been filled up by calling applications from eligible candidates for direct recruitment on transfer basis against direct recruitment vacancies only due to administrative exigencies. The applicant does not fulfill the requirements contained in the recruitment rules for the post of Assistant Programmer and hence, he cannot claim for regular appointment against the promotion quota. The respondents also submitted that the applicant does not fulfill the requisite qualification for the post of Supervisor (Computer Cell). As per the recruitment rules the Data Entry Operators Grade-C in the pay scale of Rs. 5000-8000/- with 3 years regular service in the grade are alone eligible to be considered for appointment to the post of Supervisor (Computer Cell). Similarly for getting promotion to the post of Assistant Programmer, Supervisor (Computer Cell) with two years regular service in that grade alone is eligible. The applicant had worked as Supervisor (Computer Cell) for some time on deputation basis only. Hence, he was selected for the post of Assistant Programmer on deputation basis.

4. Heard the learned counsel for the parties and carefully perused the pleadings and records.

5. The question for consideration before us is whether the applicant who is holding the post of Section Supervisor in the grade of Rs. 1400-2300 (pre-revised) and now holding the post of Assistant Programmer on deputation basis <sup>appointment to</sup> would be considered for the post of Computer Supervisor (Rs. 5500-9000) and also can be further promoted to the post of Assistant Programmer in the grade of Rs. 6500-10500/-. It is not in dispute that the applicant has been working in the Department and holding the post of Section Supervisor from 1992. At that



time, the recruitment rules were not in existence for various posts. As per notified recruitment rules, 50% posts of Computer Supervisor are to be filled up by promotion failing which by direct recruitment and 50% by direct recruitment. The promotion is to be made from amongst Data Entry Operator (Grade-C) in the pay scale of Rs. 5000-8000/- with 3 years regular service in the grade. The recruitment rules for the post of Computer Supervisor was published in the Gazettee of India on 5th January, 2002. The recruitment rules for the post of Assistant Programmer provides, 50% by promotion failing which residual of the above on yearly basis and 50% by direct recruitment including transfer on deputation from Central/State Government or inter departmental transfer. Since the applicant is holding a regular post of Section Supervisor only and held the post of Computer Supervisor on deputation basis and also the present post of Assistant programmer on deputation basis, he could only be considered for his promotion on regular basis to the post of Computer Supervisor in the grade of Rs. 5500-9000/-. As per recruitment rules only Data Entry Operators are eligible by way of promotion to the post of Computer Supervisor and the applicant is not holding that post of Data Entry Operator. It is not clear as to how the respondents have appointed him to the post of Assistant Programmer on deputation basis when he was already holding the post of Computer Supervisor on deputation basis. Normally a person is not appointed on two subsequent higher posts on deputation basis. However, we find that vide Annexure A-5 the respondents have invited applications for filling up the posts of Data Entry Operator, Programmer and Supervisor <sup>as</sup> in one time relaxation for the existing staff working in the Employees Provident Fund Organisation. In pursuance of this circular the applicant has submitted his application Annexure A-13 dated



20.9.1999 for his appointment to the post of Computer Supervisor on one time relaxation basis. The respondents did not assess/consider his application for assessing his suitability for appointment to the post of Computer Supervisor on regular basis and instead they have appointed him to the next higher post of Assistant Programmer on deputation basis vide their letter dated 26th April, 2001 (Annexure A-9).

6. After taking into consideration all the facts and circumstances of the case, we are of the considered view that ends of justice would be met if we direct the respondents to consider the applicant for appointment as Computer Supervisor in the grade of Rs. 5500-9000/- on regular basis as a one time relaxation of the recruitment rules on the same terms as provided in the circular (Annexure A-5) dated 20th May, 1998. We do so accordingly. This exercise should be completed by the respondents within a period of three months from the date of receipt of a copy of this order. The interim stay granted by this Tribunal on 19th April, 2005 shall continue till a decision is taken by the respondents for regular appointment of the applicant on the post of Computer Supervisor.

7. In view of the aforesaid, the Original Application stands disposed of. No costs.

*AB*  
(Madan Mohan)  
Judicial Member

*M.P. Singh*  
Vice Chairman

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प्रठाकर्तन सं. ओ/न्या.....जबलपुर, दि.....  
पत्रिलिपि आज्ञे दिनाः—

- (1) सचिव, उच्च छाताकालीन विद्यालय, जबलपुर
- (2) जानकारी/विवरिति, विद्यालय, जबलपुर
- (3) प्राचीनी शो/वीकारी/पत्र, विद्यालय, जबलपुर
- (4) विद्यालय, योगारा, जबलपुर, जबलपुर  
सुवर्णा एवं आमदानी, वार्दानी देनु

*AB*  
G. 9-05  
उप रजिस्ट्रार

*RECORDED*  
6-9-05