

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
Original Application No. 853 OF 2003

~~Jabalpur~~ this the 18th day of February, 2005

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

B.L. Gajbhaiye
S/o Shri Lalmanji Gajbhaiye Aged about
56 years, Senior Auditor in the Office of
P&T Audit Office, Bhopal M.P.
R/o 28/3, Dr. Ambedkar Colony,
Old Subhash Nagar, Bhopal M.P.

Applicants

(By Advocate – Shri Deepak Panjwani)

VERSUS

1. Comptroller and Auditor
General of India, New Delhi.
2. Director General of Audit, (P&T),
Delhi 110054.
3. Deputy Director of Audit,
Post and Telegraph, Audit Office,
Bhopal(MP)

Respondents

(By Advocate – Shri P.Shankaran)

ORDER

By M.P. Singh, Vice Chairman -

By filing this Original Application, the applicant has sought the following main relief :-

“8.1 to direct the respondents to grant seniority from the date of initial appointment with all consequential benefits.”

2. The brief admitted facts of the case are that the applicant is presently working as Sr. Auditor under the respondents. He was initially appointed as Sorter on 16.7.1968 in the P&T Audit and Accounts Office, Nagpur. He was subsequently appointed as Lower Division Clerk (for short 'LDC') on temporary basis as a direct recruit on 26.5.1970 in the office of the Dy Director of Audit and Accounts, P&T, Jaipur. In his appointment order it

was stipulated that passing of typewriting test with a speed of 30 words per minute was a pre-requisite condition for entitlement of increment, quasi-permanency, confirmation and for appearing in departmental examination for promotion to the post of Upper Division Clerk (for short 'UDC') (Annexure -R/1). The applicant passed the required typewriting test only on 20.8.1976 and consequently appointed substantively against a permanent vacancy in the cadre of LDC on 1.4.1977 i. e. immediately after availability of a permanent post. He lost seniority vis-a-vis his junior because he failed to pass the required qualifying typing test before his junior who were confirmed prior to him against the available permanent vacancies. The applicant has claimed the seniority in the grade from the date of his initial appointment. The respondents have not granted him seniority from the date of his initial appointment. Hence, this OA.

3. Heard the learned counsel for the parties.

4. The learned counsel for the applicant has drawn our attention to Annexure -R-6 and also drawn our attention on page 15 and has submitted that the date of initial appointment of the applicant is 26.5.1970 whereas the other persons junior to him B.M Aole, D.Y. Joshi, R.M.Pandhe and P.Jharia have been appointed on a later date. However in due course of time, they all have become senior to him. The applicant contends that he also belongs to SC category and a post of Auditor was also reserved for the persons belonging to SC category. Despite this the applicant has not been promoted.

5. On the other hand, the learned counsel for the respondents states that the the applicant was senior in the initial grade of LDC. However, he was confirmed only after passing the typing test. Since he had passed the typing test only on 20.8.1976, he became junior to these persons. Earlier before 1986, the seniority was decided from the date of confirmation. Since he had passed the typing test on a later date, he was confirmed from that date, and thus he became junior. Apart from it, all other persons, junior to him, have passed the Limited Departmental Competitive (for short 'LDCE') examination for promotion as Auditors, whereas the applicant could not clear the LDCE. The applicant was promoted as per his seniority in his turn. Therefore, he became junior in the grade of Auditor to some

other persons, who were junior to him at the time of initial appointment as LDC.

6. We have given careful consideration to the rival contentions made by the parties, we find that the applicant was appointed as LDC on 26.5.1970. He passed the typing test on 20.8.1976. But at that time there was no permanent vacancy available for his confirmation. Therefore, his claim that he was entitled to be confirmed in 1975 i. e. after completion of five years of service from the date of continuous appointment is not based on correct facts of the case. As per Manual of Standing orders of the Accountant General, P&T(Note No.4 under Para 378) at Annexure R/2, the above conditions were pre-requisite for confirmation to the post of Clerk recruited directly on or after 1.10.1967.

6.1 We also find that the applicant has been promoted to the post of Auditor in seniority-cum-fitness quota w. e. f. 31.12.1979 whereas Shri R.M. Pandhey and Smt. P.Jharia were considered for promotion as Auditors on passing the LDCE for Auditors in December, 1977 and 1979 respectively. In view of the fact that the applicant had not passed the typing test in time and has also not qualified the LDCE for promotion as Auditor, the applicant has become junior in the grade of Auditor to many persons, who were junior to him at the time of initial appointment of LDC. The action taken by the respondents in fixing seniority of the applicant vis a vis other persons, who are claimed to be junior to him, is in accordance with the rules, and no illegality has been committed by the respondents. We, therefore, do not find any reason to interfere with the seniority list issued by the respondents.

7. For the reasons recorded above, we do not find any merit in this OA. Accordingly, the same is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

पृष्ठान्त सं ओ/व्या.....जबलपुर, दि.....

पलिलिपि अर्थात् दिनांक:-

(1) सचिव, उच्च न्यायालय नगर एवं संविधान, जबलपुर

(2) आवेदन की प्रतिलिपि/को के कार्यालय

(3) प्रत्यक्षी, प्रतिलिपि/को के कार्यालय

(4) कार्य-सूच, संविधान, संविधान, संविधान

संविधान एवं आवश्यक कार्यवाही

उप सचिव

rkv.

21.2.05

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