

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH

CIRCUIT COURT AT INDORE

Original Application No. 124 of 2000

Indore this the 13th day of November, 2003  
Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri G. Shanthappa, Judicial Member  
Jayesh, S/o. Laxmichandji  
Maheshwari, Age 36 years, Occupn :  
Service (UDC Cashier), R/o. 184,  
Devi Ahilya Marg (Jail Road),  
Indore. ... Applicant

(By Advocate - Shri Rajendra Gupta)

V e r s u s

1. Employees State Insurance  
Corpn., Kotla Road, New Delhi,  
through The Director General.

2. The Regional Director,  
Employees' State Insurance  
Corporation, Panchdeep Bhawan,  
Nandanagar, Indore-8. ... Respondents

(By Advocate - Shri Akash Sharma on behalf of Shri V. Saran)

O R D E R (Oral)

By G. Shanthappa, Judicial Member -

The above Original Application is filed seeking the relief to direct the respondents to declare the result of the Departmental Examination held on 25.10.1998 with respect to the applicant and consequentially to promote the applicant on the post of Assistant/Head Clerk with the retrospective effect i.e. from the date when the others were promoted on the basis of the Departmental Examination held on 25.10.1998 alongwith all the consequential benefits including the monetary benefits etc.

2. The case of the applicant is that he joined the ESI Corporation in the year 1983 as IDC and after qualifying Departmental Test, promoted as Stenographer in the year 1987. In the year 1995 the Stenographers were asked to submit their option either to join the main cadre so as to be promoted as Head Clerk/Assistant and then as Insurance Inspector/Manager Grade-II/

Office Superintendent or to remain in the present cadre of Stenographer in which they would be promoted as P.A./Sr. P.A. and then P.S. The applicant had submitted his option on 27.07.1995.

3. The respondents have framed regulations in 1997 known as Employees State Insurance Corporation (Head Clerk/Asstt.) Recruitment Regulations, 1997. In the said recruitment regulations the promotions for the post of Head Clerk/Assistants in ESI Corporation is to be made on the qualification prescribed as under :

"Promotion -

From UDC/UDC-Cashier with three years of regular service in the Grade.

THROUGH COMPETITIVE DEPARTMENTAL EXAMINATION

By Limited Competitive Departmental Examination confined to UDC/UDC Cashier with three years regular service in the grade."

4. The applicant has submitted his representations at Annexure A-9 and Annexure A-10 requesting the respondents to consider his case for inter-se seniority for the post of UDC, since he is qualified under the said recruitment regulations.

5. According to the pleadings of the applicant, the applicant has opted on 27.07.1995. The said option was considered by the respondents on 13.11.1995. The rules came into force on 01.03.1997. As on the date of the said rules, the applicant was not put in service as UDC/UDC Cashier with three years regular service in the grade. Even then the applicant has relied on the document at Annexure A-6 by interpreting that his confirmation as UDC was issued with effect from 10.11.1994. Accordingly the case of the applicant is that he has put in 3 years of service. Hence he is eligible for promotion to the post of Head Clerk/Assistant in ESI Corporation.

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6. Per contra the respondents have filed their reply denying the allegations and averments made in the Original Application. The specific contentions of the respondents are that the Corporation vide its order dated 30.06.1995 (Annexure A-2) has given one time option to all the Stenographers to join UDC cadre. The relevant portion of this order is reproduced as under :

".....the Director General has permitted the existing incumbent of the post of Stenographers who have completed the period of probation on or before 21.05.1994 to exercise one time option to join the UDC cadre. Such stenographers will continue to work as Stenographers till they are absorbed against regular vacancy in UDC cadre.

The seniority of such Stenographers on their absorption in the cadre of UDC will be fixed keeping in view their length of regular service rendered in the grade of Stenographers/UDC."

The Applicant had given his option vide his letter dated 27.07.1995 (Annexure A-3) and the applicant was appointed in UDC cadre on regular basis with effect from 15.11.1995. The departmental examination for the post of Head Clerk was taken on 25.10.1998. The applicant had not completed three years of regular service in UDC cadre counted from 15.11.1995 to 25.10.1998.

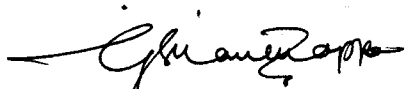
7. Accordingly the applicant has not proved his case, since he is not eligible under the said rules. The Original Application is liable to be dismissed. The facts of the judgment referred to by the applicant is not applicable to the facts of this case. The judgment of the CAT, Hyderabad Bench is applicable to the persons who have completed three years of service as UDC.


8. After hearing the advocate for the applicant and the advocate for the respondents, after perusal of the pleadings

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we have decided the case on merits.

9. According to the pleadings, the applicant has put in service as UDC from the date of acceptance of his option i.e. on 13.11.1995. The regulations for promotion to Head Clerk/ Assistants in ESI Corporation were effective from 01.03.1997. From the date of acceptance of the offer till the date of the said advertisement the applicant has not put in three years of service which is the prescribed qualification for the employees working as UDC/UDC Cashier. The applicant has not rendered 3 years of service as UDC. Hence the case of the applicant cannot be considered for the post of Head Clerk/Assistant. The applicant has failed to prove his case for grant of any kind of relief as claimed in the Original Application. Accordingly, the Original Application is dismissed. No costs.


  
(G. Shanthappa)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

"SA"

पुनर्विचार आयोग  
राजस्थान सरकार  
(1) अध्यक्ष  
(2) सदस्य  
(3) सदस्य  
(4) सदस्य  
सूचना सं. 10/2003/पुनर्विचार

Rajendra Gupta, Adv.  
V. Saran, Advocate  
Indore

  
21.11.03

Transd  
on  
21.11.03