

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No.798 of 1997

Jabalpur, this the 10th day of February, 2003.

Hon'ble Mr. Justice N.N.Singh- Vice Chairman
Hon'ble Mr. R.K.Upadhyaya- Member (Admnv.)

Milanram Keshariya,
Lower Division Clerk, O/o Assistant
Commissioner of Income Tax, Circle-I
(Admnv.), Aaykar Bhawan, Hoshangabad
Road, Bhopal.

-APPLICANT

(By Advocate- Mr.M.N.Banerjee)

Versus

1. Union of India through
the Secretary, Ministry of Finance,
Govt. of India, New Delhi.
2. Central Board of Direct Taxes,
North Block, New Delhi.
3. Commissioner of Income Tax,
Hoshangabad Road, Bhopal (MP)
4. Deputy Commissioner of Income Tax,
Bhopal Range, Bhopal.

-RESPONDENTS

(By Advocate- Mr.S.C.Sharma for
Mr.B.da.silva)

O R D E R

By R.K.Upadhyaya, Member (Admnv.):

The applicant has requested that he should be promoted as Upper Division Clerk (U.D.C. for short) from the date his immediate junior has been promoted as U.D.C., i.e., from 10.8.1990 with all consequential benefits, and he should be exempted from appearing in departmental examination for Ministerial Staff as he has been illegally denied permission to appear in the departmental examination.

2. It is stated that the applicant joined Income Tax Department on 12.10.1965 as a Group 'D' employee. He was promoted to the post of Lower Division Clerk (L.D.C. for short) on adhoc basis. Subsequently, on account of directions of this Tribunal, he was promoted on regular basis as L.D.C.

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w.e.f. 7.6.1982 as per order dated 2.7.1996 (Annexure A-8).

The claim of the applicant is that he was not allowed to appear in the Ministerial Staff Examination as soon as he was promoted as L.D.C. Therefore, his promotion to the post of U.D.C. has not been made, because of no fault on his part.

3. The learned counsel for the respondents have stated that some of the officials who were senior to the applicant as well as who were junior to him, notwithstanding their promotion on adhoc basis, qualified the departmental examination prescribed for being promoted as U.D.C., some time in the year 1990, 1992, 1993, 1994, 1996 and 1997. However, the applicant passed the Ministerial Staff Examination only in 2000 for being promoted to the post of U.D.C., it is essential that the employee successfully passes the Ministerial Staff Examination. The applicant has now passed the examination and he will be promoted in due course. It was also pointed out that the applicant claiming promotion before the date of promotion of his junior has not impleaded any junior as a party to this application. Therefore, the claim of the applicant deserves to be rejected on this ground alone. He also invited attention to the para 4 of the reply, where it has been stated that for promotion to the post of U.D.C. from amongst L.D.Cs., it is necessary that such LDCs should have ~~been~~ completed three years regular service and ~~also~~ have passed the Ministerial Staff Examination. By an order dated 02.07.1996, the applicant has been deemed regularly promoted as L.D.C. w.e.f. 07.06.1982, but without passing the Ministerial Staff Examination, he could not be promoted to the post of U.D.C. The learned

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counsel further urged that any person, who has passed the examination after the applicant has not been named having been promoted as U.D.C. Therefore, no relief is due to the applicant.

4. After hearing the learned counsel of both the parties and after perusal of the records, it is seen that the relevant rules for promotion of U.D.C. require that the applicant must have passed the Ministerial Staff Examination. In this case, the applicant had not passed the Ministerial Staff Examination from a date from which parity is requested from his junior. Therefore, the claim of the applicant is not admissible in law. The respondents have stated that the applicant will be considered for promotion in his turn, as he has now passed the Ministerial Staff Examination. In view of the fact that the applicant was not eligible for promotion before passing the Ministerial Staff Examination, no relief can be granted to him. This application is accordingly dismissed without any order as to costs.

C. B. Ingalls

(R.K.Upadhyaya)
Member (Admnv.)

N.N. Singh
(N.N. Singh)
Vice Chairman

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