



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 616/2014

New Delhi, this the 27th day of November, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Naresh Kumar Yadav
S/o Shri Matadin Yadav
Aged about 41 years
R/o H.No.66, Vill. & P.O. Surhera
New Delhi-110043.

...Applicant

(By Advocate: Shri Hari Har Pratap Singh)

Versus

1. The Union of India
Through the Secretary
Ministry of Finance
Department of Revenue
New Delhi-110001.
2. The Director of Enforcement/
Joint Director
Directorate of Enforcement
Govt. of India
6th Floor, Lok Nayak Bhawan
Khan Market, New Delhi-110003.
3. The Asstt. Director (Establishment)
Directorate of Enforcement
Govt. of India
6th Floor, Lok Nayak Bhawan
Khan Market, New Delhi-110003.
4. The Asstt. Director (Administration)
Directorate of Enforcement



Govt. of India
6th Floor, Lok Nayak Bhawan
Khan Market, New Delhi-110003.

.. Respondents

(By Advocates: Shri S.M. Arif with
Ms. Shabnam Perween)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman:-

The applicant was appointed as LDC in the Enforcement Directorate (ED) on 01.10.1996. He went on deputation to the Ministry of Food Processing Industries in the year 2003 and continued there till 14.08.2008. During that period, he was promoted as UDC by the parent department on 06.06.2008. It is stated that he was in the Grade Pay (GP) of Rs.1900/- in the ED, whereas his GP in the Ministry of Food Processing Industries was Rs.2800/- and on his promotion to the post of UDC, he was in the GP of Rs.2400/-.

2. For appointment to the post of Assistant Enforcement Officer (AEO), there existed a normal channel of promotion to the extent of 80% and



promotion through Limited Departmental Competitive Examination (LDCE) to the extent of 20%. While the former is restricted to the employees in the feeder cadre within the ED, there is no restriction for participation in the LDCE.

3. The Notification for LDCE was issued on 26.07.2013. The conditions stipulated therein are that, the UDCs with 9 years of regular service in Pay Band-1 (Rs.5200-20200) plus GP Rs.2400/-, apart from the other categories. The applicant wanted to participate therein, but was denied permission on the ground that he has not completed 9 years of regular service as UDC. This O.A. is filed challenging the said action of the respondents.

4. The applicant contends that the dominant factor to decide the eligibility to participate in the LDCE is the pay scale, with GP Rs.2400/- which he was drawing for more than 9 years and that he is eligible to participate in the LDCE.



5. Respondents filed counter affidavit opposing the O.A. It is stated that for participation in the LDCE for promotion to the post of AEO, a candidate has to fulfil two conditions, namely, (a) 9 years of regular service in the post of UDC; and (b) the pay scale for that post should have been in Pay Band-1 (Rs.5200-20200) plus GP of Rs.2400/-; and since the applicant did not have 9 years of regular service as UDC, he was denied permission. Various contentions urged by the applicant were denied.

6. We heard Shri Hari Har Pratap Singh, learned counsel for the applicant and Shri S.M. Arif, learned counsel for the respondents.

7. The basic service particulars of the applicant are furnished in the preceding paragraphs. He was appointed as LDC on 01.10.1996 and was promoted to the post of UDC on 06.06.2008. It is not necessary to refer to the fact that he was on deputation as UDC, except



that he was drawing a higher Grade Pay of Rs.2800/- during that period.

8. The relevant paragraphs of the Notification dated 26.07.2013 read as under:

“The following Officials are eligible to appear in the said examination:

“Assistant OR Stenographer Grade-I with three years regular service in Pay Band-2 (Rs.9300-34800) plus Grade Pay of Rs.4200 OR Upper Division Clerks OR Stenographer Grade-II with nine years regular service, in Pay Band-1 (Rs.5200-20200) plus Grade Pay of Rs.2400 OR twelve years combined regular service as Assistant and Upper Division Clerk subject to minimum of one year regular service as Assistant OR twelve years combined regular service as Stenographer Grade-I and Grade-II subject to minimum of one year regular service as Stenographer Grade-I having a degree from recognized University. ”

9. We are concerned with the feeder category of UDC. It is clearly mentioned that a candidate must have 9 years of regular service as UDC, in the Pay Band-1 (Rs.5200-20200) with GP of Rs.2400/-. The applicant was promoted as UDC only on 06.06.2008 and by the date of Notification, he did not have 9 years of regular service in the grade of UDC. It is evident that he



lacks basic qualification. The necessity to verify his pay scale would have arisen, only if he has crossed the 1st barrier.

10. In O.A. No.993/2013, the Ernakulam Bench of this Tribunal expressed the view that once a candidate has drawn the stipulated scale of pay for a period of 9 years, it is immaterial whether he has regular service of 9 years in the post of UDC. A different view, taken by the Cuttack Bench in O.A. No.48/2008, which was upheld by the Orissa High Court, was not accepted.

11. Once the provision is very clear, the question of placing a different interpretation on that, does not arise. In the context of promotion to a higher post, the residency period happens to be an important factor. The necessity to stipulate the scale of pay arose on account of the fact that the participation is not restricted to the employees of the ED only. In that context, the scale of pay is almost secondary. It is only when a candidate has



to his credit, the 9 years of service as UDC, that the necessity to verify the pay scale which he was drawing, would have arisen. The mere fact that the applicant was drawing the higher pay scale, even while working as LDC, should not make much difference.

12. The issue can be dealt by taking an example. Take for instance, an LDC in an Organization was drawing the pay in the scale of Rs.5200-20200, and he was promoted as UDC just one month prior to the date of issuance of notification for the LDCE. If the contention is to be accepted, the UDC with one month's service must be promoted to the higher post, on the sole ground that he was drawing a higher pay scale for a period of 9 years in the post of LDC. No principle or interpretation would permit such an approach.

13. It is brought to our notice that the applicant was promoted in the usual course,



through order dated 28.05.2018; and he was also extended the benefit of notional promotion, with effect from the date on which his immediate junior was promoted. With that, the grievance of the applicant stands redressed and nothing remains to be decided.

14. We do not find any merit in the O.A. and, accordingly, the same is dismissed. There shall be no order as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

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