

jF  
C.A.No. 2120-2121 OF 1997  
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R  
ITEM No.104 Court No 7 SECTION IX

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NOS.2120-2121 OF 1997@@  
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

G.G. Ladikar Appellant (s)

VERSUS

Union of India & Ors. Respondent (s)

Date : 27/03/2003 This/These matter(s) was/were called  
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU  
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Appellant (s) Mr. Manish Pitale,Adv.  
Mr. A.K. Sanghi,Adv.

For Respondent (s) Mr. P.P. Malhotra, Sr.Adv.  
Mr. Hemant Sharma,Adv.  
Mr. D.S. Mahra,Adv.  
Mrs. Anil Katiyar,Adv.

Mr. Ram Lambat,Adv. (N.P.)

Upon hearing counsel the Court made the following  
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....T.....J  
.SP2

The appeals are dismissed in terms of the signed  
order. No costs.

.SP1

(Neena Verma)  
Court Master

(Mithlesh Raghav)  
Court Master

Signed order is placed on the file.

.PA  
.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp  
L.....T.....T.....T.....T.....T.....T.....T.....T.....T.....T.....R  
IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.2120-2121 OF 1997@@  
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC

G.G. Ladikar

.... Appellant

Versus

Union of India & Ors.

.... Respondents

O R D E R@@  
CCCCCCCC

.....L.....I.....T.....T.....T.....T.....T.....T.....J  
.SP2

The above appeals have been filed against the orders of the Central Administrative Tribunal, Bombay Bench dated 13.03.1995 in OA No.142 of 1992 and the order dated 25.08.1995 passed in RP No.75 of 1995 rejecting the claim of the appellant for promotion to the post of Lower Division Clerk. The sum and substance of the grievance of the appellant before the Tribunal, as also before us, is that the respondents committed a grave error in applying the selection process, which, according to him, resulted in the promotion of four persons junior to him and that his claim based on the seniority have been completely overlooked. It is urged for the appellant that the departmental test prescribed for appointment to the post of Lower Division Clerk is not to be equated to competitive examination and that once the appellant undertook the examination, he should ...2/-

.PA

: 2 :

have been selected for appointment to the post in question based on his seniority and the Tribunal committed an error in assuming the manner of selection to be by a selection process, and applying such standards and norms. Per contra, Mr. P.P. Malhotra, learned senior counsel appearing for the respondent-Union of India, while inviting our attention to the relevant Rules noticed by the Tribunal, contended that the interpretation placed on the rules and reasons assigned by the Tribunal below do not suffer any infirmity to call for our interference. According to the learned senior counsel, the Rules have been properly considered and once the promotion has to be made of candidates for appointment to the post of L.D.C. on the basis of a departmental examination, it has to necessarily follow that the respective fitness of candidates has to be determined on the basis of the performance in the examination, as assessed by the marks obtained and therefore mere seniority alone will not be a sufficient criteria.

We have carefully considered the submissions of learned counsel on either side.

Indisputably, the appointment in respect of 10% of the posts of L.D.C. is by promotion based on departmental examination confined to Class-IV employees in the lower rung who have passed matriculate examination or its equivalent ...3/-

.PA

: 3 :

and have rendered five years service in that grade. Even de-hors the fact as to whether it is characterised to be a selection process or not, in the absence of any specific

stipulation that it is by non-selection method, a promotion from a lower category of post necessarily involves a selection process, all the more so when it is to be by a departmental examination and to fill up a limited number of post. The distinction that is sought to be made for the appellant that departmental examination is not the same as competitive examination, though, appears to be attractive, does not merit acceptance. At any rate, it is not departmental Test normally conducted to test the proficiency of a probationer for confirmation or acquisition of some other qualifications prescribed for promotion such as - Account Test, Typing and Stenography or other departmental tests for earning increments or crossing efficiency bar.

The departmental examination envisaged in the present context and scheme of the rules is for the purpose of selecting people from out of the Class-IV or Group-D employees as against 10% of the vacancies available since other 90% is to be filled up by way of direct recruitment. Whenever the number of posts to be filled up is limited and the candidates in the field are more than the required

...4/-

.PA

: 4 :

number and the selection for appointment had to be made after a departmental examination, inevitably it has to go by the merit performance of the candidates in the departmental examination unless there is any contra provision for adopting a different procedure or when any rule of reservation or quota is provided according to which the appointments have to be made from out of the selected candidates. The mere claim based upon seniority cannot be countenanced to oversight the results of departmental examination. Departmental examination in the context has to be construed to indicate as to who the authority who is to conduct the examination, and nothing more. It is futile, therefore, for the appellant to claim that he, having written or undertook the examination conducted by the department notwithstanding his performance or the marks obtained by him compared to the other candidates who underwent the same departmental examination, the appellant, based on the position of his seniority alone, should have been appointed. This would render the very scheme and purpose of holding a departmental examination a contradiction in terms and self nugatory.

...5/-

.PA

: 5 :

For all the reasons stated above, we do not find any infirmity whatsoever in the orders of the Tribunal below, to warrant our interference. The appeals, therefore, fail and shall stand dismissed. No costs.

.SP1

.....J.  
( DORAISWAMY RAJU )

.....J.  
( D.M. DHARMADHIKARI )

New Delhi,  
March 27, 2003.