

Central Administrative Tribunal
Principal Bench

O.A. 152/99

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2. New Delhi this the 29 th day of January, 1999

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

Hon'ble Shri N. Sahu, Member(A).

Smt. Sneh Lata,
W/o Shri Jawahar Lal,
H.No. 166, Mandi Mohalla,
Sonapat (Haryana)

... Applicant.

By Advocate Shri P.S. Mahendru.

Versus

Union of India through

1. Secretary to the Govt. of India,
Ministry of Law, Justice and
Company Affairs,
5th Floor, A-Wing, Shastri Bhawan,
Dr. Rajindra Prasad Marg,
New Delhi-110011.
2. The Regional Director,
Company Law Board,
Allen Ganj, Kanpur (UP).
3. The Official Liquidator,
Attached to the High Court of
Delhi,
A2, W2, Curzon Road Barracks,
Kasturba Gandhi Marg,
New Delhi-110001.

... Respondents.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

We have heard Shri P.S. Mahendru, learned counsel in the O.A. filed by the applicant who has sought the following reliefs:

"(i) The respondents be directed to take steps to regularise the services of the applicant as Junior Stenographer in consultation with the Staff Selection Commission on the basis of her performance keeping in view the trend of decisions of the Apex Court.

(ii) To grant the applicant all the consequential benefits on her regularisation.

(iii) And to award the costs of these proceedings in favour of the applicant".

B.

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2. Admittedly, the applicant had filed an earlier application (OA 1246/88) which was disposed of on 31.1.1994 and another OA 2418/95 which was disposed of on 20.1.1997 (Annexures A/2 and A/3).

3. In the order dated 31.1.1994, taking into account the fact that the applicant had continued in service for a number of years satisfactorily and that she was age barred but also keeping in view the interest of administration which has to be safeguarded, the respondents were directed as follows:

"The petitioner shall take the first available Staff Selection Commission test for selection to the post of Junior/Grade 'D' Stenographer. The Staff Selection Commission on the petitioner making an application for that purpose enclosing a copy of this order, permit her to take such a test without raising any objection on the ground that she is not eligible being age barred. In the event of the petitioner meeting the minimum requirement of passing the said test, the result shall be communicated by the Staff Selection Commission to the respondents whereupon they shall proceed to make a regular appointment of the petitioner with effect from the date of the order. In the event of the petitioner not taking the first available test or taking the test and failing in the same, the respondents shall proceed to terminate her services. It is obvious that in the event of the petitioner being appointed she would be entitled to count her service for the purpose of seniority only from the date of regular appointment in pursuance of the directions issued in this case".

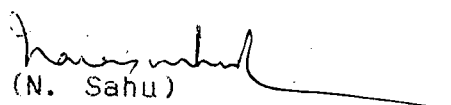
4. Learned counsel has submitted that the applicant could not succeed in the test taken by her in pursuance of the aforesaid directions. In the second application (OA 2418/95), the Tribunal after hearing both the parties and noting that the departmental representative had stated that the Staff Selection Commission would have no objection in allowing the applicant one more chance to appear in and clear the next S.S.C. examination, ordered accordingly, making it clear that no further chance will be granted to the applicant.

JB.

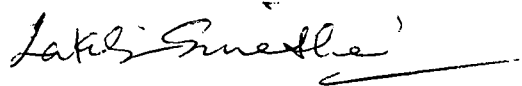
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5. In the background of these two cases already filed by the applicant and her appearing for qualifying in the test held by the S.S.C. for Stenographer Grade 'D' examination, the relief prayed for by the applicant in this O.A. to regularise her services as Junior Stenographer in consultation with S.S.C. on the basis of her performance, is not tenable. Shri P.S. Mahendru, learned counsel, has submitted that the order passed by the Tribunal in the first application (OA 1246/88) is not in order because what the Tribunal ought to have done is that S.S.C. should have held a separate selection for the applicant and direction should not have been given to S.S.C. to conduct a general test for her. ^{along with others, etc} We are also unable to agree with this contention. The contention of the applicant's counsel would in effect mean that what he wants is an order in the nature of an appellate order against the D.B. order of this Tribunal dated 31.1.1994. This is not permissible in law. Apart from this, taking into account the totality of the facts and circumstances of the case and the prayers in the earlier two O.As and the prayer in the present O.A., this application is, also clearly barred by the principles of res judicata.

6. For the reasons given above, this O.A. is dismissed in limine.


(N. Sahu)
Member (A)

SRD


(Smt. Lakshmi Swamianthan)
Member (J)