CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

1. OA No.17/98
2. OA No.18/98
3. OA No.19/98

32

New Delhi this the 26th day of May, 2000.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN
HON'BLE MRS. SHANTA SHASTRY, MEMBER (ADMNV)

OA No.17/98

1. Mr. Vinod Kumar,
F.No.1360,
Delhi Admn. Flats,
Gulabi Bagh,
New Delhi.

2. Mohini Sundan,
B-1820, Shastri Nagar,
Delhi-110052.

3. Mr. Praveen Kumar,
Plot No.2260,
Hudson Line, Kingsway Camp,
Delhi-110 009.

4. Sarita Bhardwaj,
H.No.1251,
Sector-5, R.K. Puram,
New Delhi.

5. Mrs. Pushpa,
H.No.3145, Lal Darwaja Bajar,
Sita Ram, Delhi.

6. Ms. Poonam Bhasin,
8/399. Sector-3,
Rajinder Nagar,
Sahibabad, U.P.

7. Mrs. Veena Grover,
JG-II/383, Vikaspuri,
New Delhi.

8. Ms. Lalita Rani,
WZ-80, West Patel Nagar,
Delhi.

...Appplicants

(By Advocates Shri M. Mridul and Sh. Surya Kant)

-Versus-

1. Union of India through
the Secretary,
Ministry of Environment & Forests,
Pariyavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi-110 003.

2. National Afforestation and
Eco Development Board (NAEB),
through its Member Secretary, NAEB,
Ministry of Environment and Forest,
Pariyavaran Bhawan, New Delhi.

...Respondents

(By Advocate Shri D.S. Jagotra)

OA No.18/98

1. Mrs. Susamma Babu,
B-39, South Extension Part-II,
New Delhi-110049.

2. Mrs. Madhu Alreja,
D-25, Amar Colony,
Lajpat Nagar-IV,
New Delhi.

3. Mrs. Lakshmy Subramony,
125, Medha Apartments,
Mayur Vihar, Phase-I Extn.
Delhi-110091. ...Applicants

(By Advocate Shri M.P. Raju)

-Versus-

1. Union of India through
the Secretary,
Ministry of Environment & Forests,
Pariyavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi-110 003.

2. National Afforestation and
Eco Development Board (NAEB),
through its Member Secretary, NAEB,
Ministry of Environment and Forest,
Pariyavaran Bhawan, New Delhi. ...Respondents

(By Advocate Shri D.S. Jagotra)

OA No.19/98

1. Ms. Manju Rajpal,
5/15-A, Moti Nagar,
New Delhi-110015.

2. Ms. Vidya,
H.No.1248/44, Zor Bagh,
Trinagar, Delhi.

3. Mr. Yogender Kumar,
2524/193, Omkar Nagar,
Trinagar, Delhi. ...Applicants

(By Advocates Shri M. Mridul and Shri Surya Kant)

1. Union of India through
the Secretary,
Ministry of Environment & Forests,
Pariyavaran Bhawan,
CGO Complex, Lodi Road,
New Delhi-110 003.

2. National Afforestation and
Eco Development Board (NAEB),
through its Member Secretary, NAEB,
Ministry of Environment and Forest,
Pariyavaran Bhawan, New Delhi. ...Respondents

(By Advocate Shri D.S. Jagotra)

34

## O R D E R

By Reddy, J.-

As in all the three matters the same questions of fact and law arise, they are disposed of by a common order.

2. The main relief that is prayed for in these OAs is regularisation of the services of the applicants, if necessary, by relaxing the age requirement. The applicants who are appointed initially on daily wages in the office of National Afforestation and Eco Development Board (NAEB), respondent No.2, herein, as Stenographers Grade 'D' and Lower Division Clerks (LDCs). They were appointed from 1987 and they have ~~been~~ continued to work as Stenographers Grade 'D'/LDCs without any break. It is also stated that they were initially sponsored by the Employment Exchange at the time of their initial appointment. They were assured that they would be absorbed into the service and on that assurance the applicants have been working continuously since then. The grievance of the applicants is that the respondents are now attempting to terminate their services and they have stopped the payment of their salaries in the month of November, 1997 itself. The applicants have no other way to eke out their livelihood. In spite of several representations for their regularisation and for releasing their salaries, no response was received.

3. The learned counsel for the applicants, therefore, vehemently contends that there is little reason for the respondents not to regularise the services of the applicants, having taken their continuous services for the benefit of the department for more than a decade and it is wholly against natural justice for the respondents cannot seek to apply recruitment rules for the applicants, as they would not be

eligible for selection because of their over-age. It is, therefore, submitted by the learned counsel that the applicants should be considered for regularisation, exempting the age requirement.

4. Learned counsel for the respondents, however, submits that as the applicants were appointed only on ad hoc basis and as they do not fulfil the eligibility criteria for appointment to the post of Stenographers/LDCs of Central Secretariat Stenographers Service/Central Secretariate Clerical Service, they could not be regularised all along. The respondents allowed the applicants to continue on ad hoc basis only in the interest of the applicants. Unless the applicants are qualified and selected by the Staff Selection Commission (SSC), they cannot be regularised. It is, therefore, contended by the learned counsel for the respondents that no relief could be granted to the applicants.

5. We have given our anxious consideration to the facts of the case and the arguments advanced by either side. No doubt, it is true that the applicants have been working continuously, with some artificial breaks, since a long time. It is, however, undisputed that the posts of Stenographers/LDCs in the Government are governed by the statutory rules and that they were not selected by the Government under the relevant statutory rules. The law is now well settled by the Supreme Court, whatever may be the earlier view taken by certain Tribunals and Courts, that daily wagers and casual employees or ad hoc employees cannot be regularised, de hors the statutory rules which govern the recruitment of the posts in question. Admittedly, the applicants were not found fit in the selection that was

undertaken by respondent No.2. In view of the difficulty in securing suitable candidates, the regular posts could not have been filled up. For that reason alone, the applicants might have been continued in service on daily wage basis. Mere continuance for a long time will, therefore, not confer any right upon them to seek regularisation. The respondents are, therefore, right in their stand that the applicants are not entitled for regularisation de hors the rules.

6. In the circumstances, we are constrained to decline any relief to the applicants. It is, however, open to them to participate in the selection, whenever it is made by the respondents.

7. The applicants, however, are facing the difficulty of over-age, even if they find themselves fit in the selection. This question should be addressed by the respondents in a humane way and the respondents being empowered under law, should relax the requirements of age, treating this as a special case.

8. We, therefore, direct the respondents to consider the cases of the applicants whenever the selection is made and if the applicants appear, to treat them as a special case and relax the age requirement under the Rules.

9. Till then, we direct the respondents to continue the applicants until the regularly selected candidates by the SSC are appointed. The respondents also are directed to consider the question of payment of any arrears of salary, if it is due to them.

10. The O.As are accordingly disposed of. No costs.

(Smt. Shanta Shastry)
Member (Admnv)

(V. Rajagopala Reddy)
Vice-Chairman (J)

'San.'