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Central Administrative Tribunal
Principal Bench

O.A. No. 2056 of 1998

New Delhi, dated this the 31st May, 2000

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Smt. Sudesh Kusum,
W/o Shri R.K. Sharma,
R/o H-479, Srinivaspuri,
New Delhi-110065.

.. Applicant

(By Advocate: Shri K.K. Patel)

Versus

1. Union of India through
the General Manager,
Western Railway,
Church Gate, Mumbai.
2. Divl. Railway Manager,
Western Railway,
Kota.
3. Sr. Divl. Electrical Engineer,
Traction Rolling Stock,
Tughlakabad,
New Delhi.

.. Respondents

(By Advocate: Shri P.S. Mahendru)

ORDER

MR. S.R. ADIGE, VC (A)

Applicant seeks regularisation as
Stenographer (1200-2040/4000-6000) and continuance in
service till she is regularised.

2. Applicant was initially appointed as a
casual labourer on 25.8.80. Thereafter she was
appointed as a casual khallasi (Rs.750-940) w.e.f.
1.1.85. She appeared in the trade test for the post
of Khallasi (Rs.800-1150) and was promoted as such
w.e.f. 10.12.93. She claims to have been put to
work as a Stenographer in 1990 which is denied by
respondents. What is not denied by them is that she

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was promoted as Stenographer on ad hoc basis on 31.5.95 and was posted under Respondent No.3.

3. According to respondents there is only one post of Stenographer under R-3, and consequent to the transfer of one Shri Bhagwan Sahai from Kotah to Delhi and his posting under R-3 vide letter dated 25.9.98 (Ann. R-1) they state that they have been compelled to revert applicant to her substantive post.

4. By virtue of interim orders passed on 27.10.98 applicant is continuing as Stenographer.

5. We have heard both sides.

6. As per Paragraph 176 IREM Vol. I, vacancies in the category of Stenographer in the scale of Rs.1200-2040 are to be filled up as under:

- i) 25% by promotion by selection of short hand knowing clerks;
- ii) 50% by promotion by selection of shorthand knowing typists; and
- iii) 25% by direct recruitment through Railway Recruitment Boards.

Applicant whose substantive post is that of Khallasi, a Group 'D' post does not fall within the feeder cadre for promotion as Stenographer.

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7. Applicant's counsel has relied upon the Calcutta High Court's ruling dated 28.1.83 in D.B. Jena Vs. Union of India & others 55 (1983) CLT 290. In that case Shri Jena was in the feeder grade for promotion as Health Inspector, but that is not the ^{case} here. Hence that judgment does not help applicant. A copy of the Hon'ble Supreme Court's order dated 24.8.81 in SLP No. 7493/80 has been filed dismissing the SLP on merits, but that order relates to a Cuttack High Court order dated 20.12.79 in Union of India Vs. S.K. Mohanti ^{and} has no bearing on D.B. Jena's case (supra).

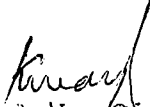
8. Applicant's counsel also relies upon a letter dated 14.12.94 from General Manager (P) Northern Railway (copy taken on record) regarding regularisation of service of typists working on ad hoc basis for more than three years, but that letter relates to typists and not stenographers.


9. On the other hand respondents' counsel has cited the case of Dr. Arundhati Pargaonkar Vs. state of Maharashtra JT 1994 (5) SC 378 wherein the Hon'ble Supreme Court has held that eligibility and continuous working for howsoever long period should not be allowed to over-reach the law, and requirements of rules cannot be substituted by humane consideration. Much the same view has been held in 1996 (10) SCC 567 and 1997 (1) SCC 60.

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10. Under the circumstances, applicant's prayer for regularisation as Stenographer cannot be acceded to. In her rejoinder, applicant has contended Shri Bhagwan Sahai has already joined in another vacancy on 14.11.98 and another vacancy of Stenographer has occurred consequent to one Shri Devender Kumar asking for a change in category. If so it will be open to respondents to continue applicant as Stenographer against the post she is presently occupying or against any other post of Stenographer if they are so disposed to do. They shall, however, not replace her by another ad hoc appointee.

11. The O.A. is disposed of in terms of Paragraph 10 above. Interim orders are vacated. No costs.


(Kuldip Singh)
Member (J)


(S.R. Adige)
Vice Chairman (A)

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