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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA-1784/95

New Delhi this the 28th day of October, 1999.

HON'BLE MR. JUSTICE V.RAJAGOPALA REDDY, VICE-CHAIRMAN(J)
HON'BLE MRS. SHANTA SHAstry, MEMBER (A)

1. Shri Pradeep Kumar Bhatnagar,
S/o Shri S.P. Bhatnagar
2. Shri D.K. Chaturvedi,
S/o Shri R.N. Chaturvedi,
Stenographers under
Rail Spring Karkhana,
Central Railway,
Sithouli, Gwalior (M.P.) ...Applicants

(By Advocate Shri B.S. Mainee)

-Versus-

Union of India through:

1. The Secretary,
Railway Board,
Ministry of Railways,
Rail Bhawan,
New Delhi.
2. The General Manager,
Central Railway,
Bombay V.T.
3. The Chief Workshop Manager,
Rail Spring Karkhana,
Sithouli, Gwalior (M.P.) ...Respondents

(By Advocate - None)

O R D E R

By Reddy, J.-

The applicants seek to challenge the order of alleged reversion from the posts of Stenographer to the posts of Typist. It is submitted that applicant No.1 was appointed on 6.11.89 and applicant No.2 on 10.4.89, as Stenographers in the grade of Rs.1200-2040. During 1991, as per the applicants the respondents had taken a decision to regularise the services of those who have been working on temporary basis. The applicant along with others requested to consider their case for regularisation. It is also stated that respondent No.3

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requested the Chief Mechanical Engineer for regularisation of the services of the staff including the applicants and that the post-facto sanction of the General Manager was communicated by the Headquarters office vide letter dated 24.9.93 and in the said letter the General Manager pointed out that the proposal has been sent to the Railway Board for relaxation of upper age limit for appointment of some of the staff, including the applicants. Ultimately the age relaxation was given by the Railway Board for age relaxation of the staff who had been appointed directly under respondent 3, including the applicants. Subsequently, the applicants were screened for regularisation in 1994. Apprehending that the applicants might be regularised in Group 'D' they submitted representations to the respondents requesting that they should be regularised in the posts of Stenographer with effect from the date of their initial appointment as such. In spite of the report given by the Screening Committee that the applicants should be regularised in the posts of Stenographers they were regularised as Typists in the grade of Rs.950-1500 by the impugned order dated 22.3.95. Several representations have been made against the said order and all of them were rejected and as a result the applicants's salaries have been reduced from Rs.1350/- p.m. and Rs.1050/- p.m. respectively. Aggrieved by the above order, the applicants filed the present OA.

2. It is contended by the learned counsel for the applicants that the impugned order amounts to reversion from the posts of Stenographers, to the posts

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of Typist which is of lower grade than the grade in which they were initially appointed and that the applicants having been working regularly in the posts of Stenographers they are entitled to be regularised in the posts of Stenographers.

3. The respondents deny that the applicants had been reverted. It was averred in the counter-affidavit that the applicants were initially working in the Group 'D' posts in Rail Spring Karkhana Sithouli and they appeared for the posts of Typists from the Group 'D' category against the vacancies of 33-1/3% quota. After successfully qualifying the test they were appointed as Typists in the grade of Rs.950-1500. Initially they were appointed on purely temporary basis in the said Karkhana. As all the posts in the Karkhana were newly created posts, they were appointed purely on temporary basis on the clear understanding that would not confer any prescriptive right to claim the charge of the posts and when any regular candidates become available in the project they would have to face termination. They were, therefore, appointed as substitutes on purely temporary basis. It is, therefore, contended that the applicants are not entitled for the scale of the Stenographers since they have been promoted to the posts of Typists.

4. We have considered the rival contentions, carefully. It is not in dispute that the applicants who are casual labourers were regularised in Group 'D' in the Railways. Annexures A-3 and A-4 reveal that by office orders dated 10.4.89 and 27.10.89 applicants were

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initially posted as Substitutes in the post of Stenographers Grade Rs.1200-2040 on purely temporary basis w.e.f. 10.4.89 and 6.11.89. It was made clear in the orders of appointment that their appointments were purely on temporary/substitute basis and that would not confer any right to claim the charge of that post and it was also stated that when regular candidates become available in the project they will have to face termination in such eventuality. Accordingly, the applicants were posted as Junior Stenographers in the grade of Rs.1200-2040 and they have been continued in the said post.

5. In the present case the grievance of the applicants is not that they were not regularised in the posts of Stenographers Group 'C'. The respondents having relaxed the age as prescribed under the relevant recruitment rules permitted the applicants to appear for the examination for promotion to the posts of Typists. The applicants having been found successful were promoted by the impugned order to the posts of Typist in the grade of Rs.950-1500. Applicants' grievance is only against the fixation of the pay in the lower grade of Rs.950-1500 than in the grade of Rs.1200-2040 which they were drawing in the post of Stenographers while they were working as such. They seek the higher scale of pay working in the posts of Typists. This in our view is not permissible and is wholly opposed to recruitment rules. Since the applicants have appeared for the examination for promotion to the posts of Typist they have rightly not made any grievance of their regularisation in the posts of Typists. But once they

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are regularised in the posts of Typist they are entitled only to the posts of Typists. Rules do not permit for a typist to draw the scale of Stenographer. The learned counsel for the applicant submits that since they had been working in the posts of Stenographers and drawing the higher scale of the Stenographers there is no bar from claiming the same scale though they have been regularised in the lower post. He relies upon Ram Kumar & Ors. v. Union of India & Ors. 1996 (1) SLJ (SC) 116. In this case it was held that the Railway casual labours working in Group 'C' can be regularised in Group 'D' but their pay and allowances should be protected as they were working in Group 'C' till they are promoted in Group 'C' and that the Group 'D' casual labour who have been working for more than five years should be regularised in Group 'C'. We are of the view that this case is inapplicable to the facts of the present case. The applicants have in fact been regularised in the posts of Typists which is a Group 'C' post on their promotion against the 33/1/3% quota from Group 'D'. The applicants were never working in the posts of Stenographers either against the regular post or on promotion or regular appointment. They have been working only as substitutes and were placed in a temporary charge. Since they have been working and discharging the functions of the Stenographers they were paid the scale of pay of Stenographers. Hence they cannot claim any benefit out of their temporary charge as Stenographer. In the circumstances the ratio laid down by the Supreme Court in the case of Ram Kumar (supra), in our view, has no application.

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5. It is also not a case, as contended by the learned counsel for the applicants that the applicants have been reverted from higher posts to lower posts or the pay of the applicants have been reduced arbitrarily. Hence, the decision cited by the learned counsel for the applicants in S.K. Sharma & Ors. v. Union of India & Ors., SLJ 1991 (3), 391 and Shri Bhagwan Shukla v. Union of India & Ors., SLJ 1995 (2) SC 30 have no application. The decision cited by the learned counsel in support of his contention that the applicants are entitled for the grade of Stenographers as they have been discharging the functions of the Stenographers are wholly inapplicable in this case as the applicants herein have been regularised in the posts of Typists on regular promotion, hence they are only entitled only for the pay of Typists and not the pay of the Stenographers. Rules do not permit payment of the pay of the Stenographers to the applicants. In the circumstances we do not find any merit in the OA. The OA, therefore, fails and is accordingly dismissed, and in the circumstances without costs.

Shanta Shastry
(Smt. Shanta Shastry)
Member (J)

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