

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1111/95

FULL BENCH: Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)
Hon'ble Mrs. Lakshmi Swaminathan, Member(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 08th day of January, 1997

Shri S.Kailasam
s/o Sri N. Sesha Pillai
aged 37 years
working in the Central Administrative Tribunal
Hyderabad. ... Applicant

(By Shri R.Santhanakrishnan, Advocate)

Vs.

1. The Registrar
Principal Bench
Central Administrative Tribunal
Faridkot House
Copernicus Marg
NEW DELHI - 110 001.

2. The Registrar
Central Administrative Tribunal
'HACA' Bhavan, I Floor
Hyderabad Bench
Hyderabad.

3. Smt. Vijaya Laxmi
w/o Shri J. Mohan Reddy
Stenographer Grade 'D'
Central Administrative Tribunal
Hyderabad Bench
Hyderabad. ... Respondents

(By Shri V.K.Mehta, proxy of Shri N.S.Mehta, Advocate)

O R D E R (Oral)

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)

In pursuance of the notification published in the
Employment News weekly dated 22-28th June, 1991, calling
applications for filling up of the post of Court Master/
Grade 'C' Stenographers (Group 'B' Non-Gazetted) in the
Central Administrative Tribunal, the applicant, who was
working as Junior Stenographer in the Publication Division
of the Ministry of Information and Broadcasting, applied

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for appointment on deputation opting to be posted in Bangalore, Hyderabad or Ernakulam making it clear that he would be willing to be considered for transfer on deputation at Hyderabad or Ernakulam only if his absorption was considered. On the basis of the said application, the applicant was considered and taken on transfer on deputation at the Hyderabad Bench of the Central Administrative Tribunal. He joined on 06.02.1992. On 13.12.1993 the applicant represented that he may be absorbed as Court Master in the said Tribunal. Finding no response, he again made a representation on 27.9.1994 for considering his representation. The Principal Bench of the Central Administrative Tribunal advised the Hyderabad Bench on 25.2.1994 that his absorption may be considered. However, the applicant was not absorbed and his period of deputation was extended. The applicant states that as nobody was eligible for promotion in the feeder grade at the time when he was taken on transfer on deputation, and especially when he had indicated in his application that he would be interested in joining the Tribunal on deputation at Hyderabad or Ernakulam Bench only. In case his absorption would be considered, he had a right to be absorbed on the post of Court Master and that the action on the part of the respondents in not absorbing him is not justified. He has therefore, filed this application before the Hyderabad Bench of the Central Administrative Tribunal seeking a direction to respondents to absorb the applicant as a Court Master with immediate effect as per the applicant's application of 19.07.1991 and as per the Principal Bench letter dated 23/25.2.1994.

2. Srmt. Vijayalakshmi, who was working as Grade 'D' Stenographer in the Hyderabad Bench of the Central Administrative Tribunal got herself impleaded as Respondent No.3.

3. The Respondents 1 and 2 in their reply have after quoting the relevant portions of the Recruitment Rules,

stated that the Vice-Chairman of the Hyderabad Bench decided not to absorb the applicant taking note of the fact that if the applicant was absorbed, the chances of promotion of those in the feeder grade would be adversely affected and that the applicant did not have a right for claiming absorption. Respondent No.3 also contested the case of the applicant.

4. The case was transferred to the Principal Bench of this Tribunal noting that a Division Bench of the Central Administrative Tribunal at Hyderabad had in OA No.810/94 of that Bench held that there is no provision in the Recruitment Rules for absorption of deputationists and that this finding need to be reconsidered as it appears to have been arrived at without adverting to provisions of Rule - 4 of the Central Administrative Tribunal Stenographer's Service (Group 'B' & 'C' Posts) Recruitment Rules, 1989. The Hon'ble Chairman by order dated 31.12.1996 constituted this larger Bench for disposal of the case and that is how the case has come up before us.

5. Shri R.Santhanakrishnan, learned counsel for the applicant addressed the Bench and Shri V.K.Mehta appeared on behalf of the Respondent No.1 & 2. The third respondent is not represented today.

6. The counsel had assisted us in interpreting the provisions of the relevant Recruitment Rules. In OA No.810/94 of the Hyderabad Bench, noting that Rule 5 of the Recruitment Rules provided for absorption of those who were on deputation, on the date of commencement of the said Recruitment Rules, it was held that there is no provisions for absorption of

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deputationists who came on deputation after the commencement of the Recruitment Rules. However, we find that this view was erroneously taken without adverting to the Rule 4 of the Central Administrative Tribunal Stenographer's Services (Group 'B' & 'C' Posts) Recruitment Rules, 1989. The said Rule reads as follows:

Rule 4: Methods of recruitment, age limit, qualifications etc - The method of recruitment to the said posts age limit, qualifications and other relating thereto shall be as specified in Column 5 to 14 of the Schedule aforesaid.

According to Column 11 of the Schedule, 50% of the vacancies are to be filled up by direct recruitment and the remaining 50% by promotion failing which transfer/transfer on deputation. Those who are appointed by transfer on deputation, can definitely be considered for absorption and till such time they are absorbed, they would remain deputationists. Therefore, to hold that there is no provision in the recruitment rules which provides for absorption of deputationists may not be stating the correct position in accordance with the recruitment rules. We are of the view that the contrary view was taken in Suvarna's case probably because Rule 4 was not brought to the notice of the Bench.

7. From what is stated above, it is evident that those who come transfer on deputation may be considered for absorption by the competent authority in accordance with the provisions of the Recruitment Rules. So long as they are not absorbed, they are only deputationists and have no indefeasible right to be absorbed.

8. Having stated that the view taken in Suvarna's case is erroneous to the extent stated above. We have

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to consider in this case what relief the applicant is entitled to. On this aspect, there is an agreement between the applicant and the Respondent 1 & 2. Shri V.K.Mehta, learned counsel for the respondents under instructions from the Joint Registrar, who is present in Court states that the respondents would consider the applicant for absorption on any of the existing vacancies or the vacancies that would arise in future in the Grade of Court Master/Grade 'C' Stenographer, in accordance with the Recruitment Rules. The learned counsel for the applicant states that the applicant will also be satisfied if the respondents would carry out this promise. The learned counsel for the respondents 1 & 2 stated that there are vacancies existing and there is no difficulty in considering the absorption of the applicant.

9. In the result, the application is disposed of with the following declaration and directions:

(a) The view taken in Suvarna's case (O.A.NO.810/94 of Hyderabad Bench, CAT) that the Recruitment Rules do not provide for absorption of deputationist is not the correct statement of the Rules position since a person appointed on transfer on deputation may be considered for absorption by the competent authority.

(b) Respondent No.1 & 2 shall consider the case of the applicant for absorption on the post of Court Master/ ^{already in this Recruitment} Grade 'C' Stenographer on existing vacancies and ^{Rules} pass proper orders within a period of one month from the date of receipt of a copy of this order.

R.K. Ahodja
(R.K. AHODJA)
MEMBER(A)

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)

A.V. Haridasan
(A.V. HARIDASAN)
VICE-CHAIRMAN(J)

/rao/