

8

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.794/97

New Delhi: this the 20th day of November, 1997.

HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A).

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER (J).

Smt. Anita Nagar,
R/o GH-14, MIG Flat No.18,
Paschim Vihar,
New Delhi - 41.

...Applicant.

(By Advocate: Shri Lokander Jit).

Versus

Union of India through
Secretary,
Ministry of Coal, Govt. of India,
Shastri Bhawan,
New Delhi.

2. Shri P.K.G.Nair,
Under Secretary,
Ministry of Coal, Govt. of India,
Shastri Bhawan,
New Delhi.

3. The Deputy Controller of Accounts,
Ministry of Coal,
Ansals Bhawan,
11th Floor, Kasturba Gandhi Marg,
New Delhi. Respondents.

(By Advocate: Mrs. P.K.Gupta)

ORDER(ORAL)

BY HON'BLE MR.S.R.ADIGE, VICE CHAIRMAN (A).

Applicant impugns respondents' order dated 17.3.97 (Annexure-A1) reverting her to the post of Stenographer Grade 'D' with effect from the forenoon of that date and placing her services at the disposal of her parent cadre of Pay and Accounts Office, Coal Ministry.

2. By Memorandum dated 8.8.79 (Annexure-A) applicant was offered a temporary post of Stenographer Grade 'D' on the basis of Stenographer Examination, 1978 conducted by the Staff Selection Commission for appointment in the Central Civil Accounts Service and joined duties on 17.8.79.

3. On 1.2.83, the Department of Coal issued a seniority list of Grade 'D' Stenographers of Central Secretariat Stenographer Service (CSSS) in the cadre of the Department of Coal as on 1.1.83 in which applicant's name featured at Sl.No.6. In December, 1985, applicant's services were transferred from Pay and Accounts Office to the Ministry of Coal. The Ministry of Coal again issued a common seniority list of Stenographers in their department on 30.9.88 (Annexure -D) in which applicant's name featured at Sl.No.2 of the list of Grade 'D' Stenographers. Thereupon by order dated 28.11.88 (Annexure-E) applicant who was described as a Stenographer Grade 'D' of CSSS of the cadre of Coal Department was promoted as Stenographer Grade 'C' on adhoc basis from 1.7.88 to 31.12.88 or until further orders, whichever was earlier, and by order dated 15.12.88, her pay as Stenographer Grade 'C' of CSSS was accordingly fixed (Annexure- E colly). The said adhoc appointment was extended from time to time. As recently on 1.2.96 (Annexure-G) respondents issued a provisional seniority list of Coal Ministry's employees as on 1.1.96 in which applicant's name featured as Stenographer Grade 'D' in the CSSS

of cadre of Coal Ministry and she is shown as officiating Stenographer Grade 'C'. A little before on 4.7.95 (Annexure-B) respondents issued an order informing applicant that she was being considered for promotion as Stenographer Grade 'C' against Select List vacancy for the year 1993, and her willingness was asked for to move out of Ministry for her promotion, to which she gave her willingness.

4. The main ground taken by Respondents in their reply is that the applicant was posted in Coal Ministry by Pay & Account Office without consulting DP & T which is a pre-requisite before change of cadre as per notification dated 10.7.78. It is stated that her name was interpolated with other persons working in CSSS cadre of Coal Ministry due to administrative lapse and when her case for inclusion in select list of Stenographer Grade 'C' was taken with DP & T, they pointed out that applicant did not belong to CSSS cadre as SSC had not conducted examination for Stenographer Grade 'D' for the years from 1977 to 1980 and it was not possible to allow her to continue in CSSS. It is for this reason that she was repatriated to her parent cadre of Pay & Accounts Office. It is stated that applicant's appointment as Stenographer Grade 'D' was made by Pay & Accounts Office under CCAS Grade 'C' which is a subordinate service whereas Stenographers of Coal Ministry are governed by CSSS which is a Secretariat Service, hence her services were rightly placed at the

11

disposal of her parent cadre of Pay & Accounts Office vide impugned order dated 17.3.97. In this connection it is stated that Stenographers in the Ministries are appointed under CSSS for which separate examinations are conducted by SSC and during December, 1985 she was posted in the Coal Ministry by P & AO as a purely internal arrangement, and not transfer to the cadre of CSSS of the Ministry. It is contended that if the applicant was permitted to continue in the CSSS cadre as prayed by her, this interpolation will adversely effect the seniority of a very large number of persons belonging to CCAS working in various P & AO's as well as many other stenographers belonging to CSSS cadre.

5. We have heard Shri Lokander Jit for the applicant and Mrs. P.K. Gupta for the respondents. We have also perused the materials on record and have given the matter our careful consideration.

6. It is clear from respondents' own records that applicant has been shown as a Stenographer Grade 'D' belonging to CSSS cadre in Coal Ministry since as far back as 1.1.83 and has been working continuously in that Ministry since then and has also been permitted as Stenographer Grade 'C' (ad hoc) since 1.7.88. In this connection Shri Jit has invited our attention to Rule 5(a) of C & AS (Group 'C') Reconstituted Rules, 1978 promulgated by Notification dated 10.7.78 which reads as follows:

2

"(a) Vacancies in the cadre of stenographers in the pay scale of Rs.330-560 shall be filled by recruitment in such manner as may be prescribed after consultation with the Department of Personnel and Administrative Reforms and the Stenographers so recruited shall not be members of this service, but, shall be members of the Central Secretariat Stenographers Service of the concerned Ministry."

It is on this basis that the Coal Ministry in its OM dated 3.1.97 (Annexure-I) had asserted that the applicant was a Member of CSSS of Coal Ministry and was thus eligible for inclusion in the Select List of Grade 'C' of CSSS for the year 1994. Our attention has also been invited to affidavit dated 15.10.97 of Respondent No.3 (Deputy Controller of Accounts) wherein he has stated that applicant has been discharging her duties and functions as Stenographer in the CSSS cadre of Coal Ministry even since 1985-86 and consequently her name was struck out from the gradation list of Pay & Accounts Office and it now appears in the Gradation List of Coal Ministry alone. It is also stated that applicant's GPF Account, Service Book and other service records were also transferred to the Coal Ministry for their further maintenance and in case the applicant is now sought to be reverted to P & AO, it will adversely effect the seniority of Stenographers working there in CCAS(Group 'C') which may lead to prolonged litigation.

7. In our view the applicant cannot be made to pay for the "administrative lapse" committed by respondents which admittedly forms the basis of their impugned action, when she has been working continuously in Coal Ministry for the

last so many years, and has even been promoted on adhoc basis in that Ministry and was being considered for being brought onto the Select List of Steno. Grade 'C' in that Ministry.

8. In the particular facts and circumstances of this case therefore this OA succeeds and is allowed to the extent that the impugned order dated 17.3.97 is quashed and set aside. Respondents are directed to allow applicant to continue in the post of Stenographer Grade 'C' in the DoA Ministry. Respondents shall also consider her case for confirmation and inclusion in the Select List of Stenographer Grade 'C' in accordance with rules and pass a detailed, speaking and reasoned order in this regard under intimation to applicant within 3 months from the date of receipt of a copy of this judgment. No costs.

9. We thank Shrit Jit ^{ld. Counsel} for a lucid presentation of the case.

Lakshmi
(MRS. LAKSHMI SWAMINATHAN)

MEMBER(J).

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(S.R. ADIGE)
VICE CHAIRMAN (A).