

Central Administrative Tribunal  
Principal Bench

O.A. No. 2543 of 1994

New Delhi, dated this the 24th November, 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)  
Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

Shri S.C. Malhotra,  
S/o Shri K.S. Malhotra,  
R/o 22/113, West Patel Nagar,  
New Delhi-110008.

... Applicant

(None appeared)

Versus

Union of India through  
the Foreign Secretary,  
Ministry of External Affairs,  
South Block,  
New Delhi.

... Respondent

(By Advocate: Shri N.S. Mehta)

ORDER (Oral)

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

Applicant seeks a direction to Respondents to fix his seniority in the grade of Stenographer Gr. III w.e.f. the date of his initial appointment as Stenographer Grade II viz 30.8.72 with all consequential benefits.

2. None appeared for applicant even on the second call when the case was called out. Shri N.S.Mehta appeared for Respondents and has been heard.

3. Admittedly applicant was appointed as a L.D.C. on ad hoc basis during 1964-65. In accordance with the Tribunal's order dated 8.6.88 in T.A. No. 136/85 Shyam Sunder Vs. Union of India & Others, applicant's services were counted as regular from <sup>the date of</sup> his ad hoc appointment as

L.D.C., and on that basis was declared eligible to appear in the Stenographers Grade III Limited Departmental Competitive Examination, 1973. Applicant participated in the aforesaid competitive examination and upon being declare successful, was appointed as substantive Stenographer Grade III w.e.f. 14.3.74. (16)

4. Meanwhile Respondents had appointed applicant as Stenographer Grade III on ad hoc basis on 30.8.72. This ad hoc appointment <sup>as Steno. Gr III</sup> which had been specifically ~~referred to~~ <sup>referred to</sup> by Respondents in their reply, has not been specifically denied by applicant. In fact in Paragraph 4.8 of the O.A. applicant has stated that he is entitled to count seniority in the grade of Stenographer Grade III atleast from the date of appointment on the basis of 1973 competitive examination results, applicant has been granted seniority as Stenographer Grade III w.e.f. 14.3.74 and under the circumstances it cannot be said that this decision of the respondents suffers from any infirmity.

5. The Hon'ble Supreme Court in the Direct Recruit Class-II Engineering Officers' Association Vs. State of Maharashtra JT 1990(2) SC 264 has set forth different Propositions on the basis of which seniority is to be counted. Proposition (A) is given below:

- (A) Once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.
- 2

The corollary of the above rule is that where initial appointment is only ad hoc and not according to rules and made as a stop-gap arrangement, the officiation in such post cannot be taken into account for considering the seniority.

17

Applying the above legal Proposition set forth by the Hon'ble Supreme Court, applicant can be granted the benefit of seniority as Stenographer Grade III with effect from 30.8.72 ~~only~~ in accordance with Proposition (A) <sup>only if</sup> that ad hoc appointment as Stenographer Grade III was made strictly in accordance with Recruitment Rules.

6. Shri Mehta informs us that as per relevant Recruitment Rules, appointment to the post of Stenographer Grade III can be made either on the basis of promotion, or on the basis of passing the Limited Departmental Competitive Examination. Applicant's ad hoc appointment as Stenographer Grade III w.e.f. 30.8.72 was neither a case of promotion, nor was through Limited Departmental Competitive Examination and under the circumstances the relevant claim is squarely hit by the corollary <sup>to</sup> of Proposition (A) of the Direct Recruit Class-II Engineering Officers' Association's case (Supra).

7. Under the circumstances we are unable to grant the relief prayed for by applicant and this O.A. is, therefore, dismissed. No costs.

*Lakshmi Swaminathan*  
(Mrs. Lakshmi Swaminathan)  
Member (J)

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

/GK/