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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1432/89 198  
T.A. No.

DATE OF DECISION 2.3.1990.

Smt. Kaushalya Devi Applicant (s)

Sahotra

Shri R.K. Saini Advocate for the Applicant (s)

Versus

Union of India & Others Respondent (s)

Smt. Raj Kumari Chopra Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

(delivered by Hon'ble Shri D.K. Chakravorty, Member)

The applicant, who is aged about 38 years, has worked as Stenographer Grade III on ad hoc basis in the Directorate of Advertising & Visual Publicity (DAVP), New Delhi, from 8.1.1975 till 31.3.1986 without interruption. During this period, she was allowed to cross the Efficiency Bar in the Grade of Stenographer, Grade 'D'. By order dated 1.4.1986, her services were terminated w.e.f. the afternoon of 31.3.1986 as she failed to qualify the Special Qualifying Examination, 1985, held in pursuance of the Office Memorandum dated 28th February, 1985, issued by the Department of Personnel & Administrative Reforms. Aggrieved by the said order, she filed OA-258/87 in this Tribunal which was disposed of by this Tribunal by judgement dated

27.10.1988 to which one of us (P.K. Kartha) was a party.

2. The Tribunal observed that it will meet the ends of justice if she is given one more chance to attend and pass the qualifying examination and directed the respondents to hold such an examination for her. If she passed the examination, she should be given regular appointment, relaxing the age-limit, if any, prescribed for the purpose.

3. Pursuant to the aforesaid directions, the respondents held a Special Qualifying Test for her in February, 1989 in which she passed the written test. She was asked to appear on 20.3.1989 in the Shorthand Test which she failed to qualify. She requested the respondents vide her letter dated 31.3.1989 that she be provided a post of L.D.C. in terms of para.8 of the Office Memorandum dated 28.2.1985, according to which, Stenographers who qualify in the written test of the examination but do not qualify in the Stenography test, will be considered for regular appointment as Lower Division Clerk, subject to their passing the typewriting test at the minimum prescribed speed. She was informed by the Staff Selection Commission vide their letter dated 5.4.1989 to take the typewriting test on 10.4.1989 in English medium. She has averred in para.4.8 of the application that she qualified in the typewriting test and thus became eligible to be appointed as L.D.C. in terms of para.8 of the Office Memorandum dated 28.2.85, mentioned above.

4. The relief sought in the present application is that the respondents be directed to appoint the applicant as Lower Division Clerk on regular basis in terms of para.8 of the Office Memorandum dated 28.2.1985 as she has successfully qualified in the written as well as the

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typewriting tests. She sent a representation to the respondents on 26.5.1989, but the respondents have not acceded to her request for appointing her as L.D.C.

5. In the counter-affidavit filed by the respondents, they have not disputed the facts as stated in the application. They have, however, contended that having failed to make use of the additional opportunity given to her in February, 1989, she is not entitled to regularisation of her services and that she cannot also be offered the post of L.D.C. with attendant benefit of past service under the existing rules. The opportunity given to her in February, 1989 pursuant to the Tribunal's judgement dated 27.10.1988, does not have any relevance to the Office Memorandum issued by the Department of Personnel on 28.2.1985.

6. We have perused the records of the case and have heard the learned counsel for both the parties. In our opinion, the application could be disposed of at the admission stage itself.

7. The Office Memorandum issued by the Department of Personnel on 28th February, 1985, dealt with the regularisation of ad hoc employees working as Lower Division Clerks, Telephone Operators, Hindi Typists, etc., against posts of L.D.C. excluded from the purview of the Central Secretariat Clerical Service in the ministries/departments participating in the Service. A special Clerks' Grade Examination was held in 1983 to regularise them. Since a substantial number of LDCs appointed on ad hoc basis were still continuing, it was decided to give another final chance to them by holding an examination in July, 1985. It was, inter alia, stated in the Office Memorandum that the services of those who failed to qualify in the examination, should be terminated

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forthwith after the results of the examination are declared. It was the third and final examination to be held by the Staff Selection Commission for regularisation of ad hoc employees.

8. Para.8 of the O.M., however, clarified that "those ad hoc Stenographers who qualify in the written part of the examination but do not qualify in stenography test, will be considered for regular appointment as Lower Division Clerk, subject to their passing the typewriting test at the minimum prescribed speeds and subject to availability of vacancies in the respective departments/offices.

9. While the applicant filed her earlier application (OA-258/87) in this Tribunal, she did not pray that she should be accommodated in the post of L.D.C. in terms of para.8 of the Office Memorandum dated 28.2.1985 as she had passed the written and typing tests though not the stenography test. The Tribunal directed the respondents to hold a special qualifying test for her. The test was accordingly held in which she failed to qualify in the Shorthand Test. Subsequently, it appears that she has been asked to appear in a typewriting test which she claims to have undergone successfully. Though the test conducted in 1989, pursuant to the directions of this Tribunal, cannot strictly be construed as an examination within the ambit and scope of the Office Memorandum issued by the Department of Personnel on 28th February, 1985, we are of the opinion that in the interest of justice and equity, she should be considered for appointment as L.D.C. We have come to the conclusion in view of the fact that she has worked as a Stenographer in the Office of the respondents for over

eleven years from 1975 to 1986, that there is no allegation about her unsatisfactory performance during this period, and that she has become over-age for any further public appointment under the Government.

10. In the light of the above, the application is disposed of at the admission stage itself with the following directions:-

(i) The respondents shall consider the applicant for regular appointment as Lower Division Clerk after verifying that she has passed the written and typewriting tests at the Special Qualifying Test held for her in February, 1989 pursuant to the directions of this Tribunal in its judgement dated 23.10.1988 in OA-258/87. Though her case is not directly covered by the Office Memorandum issued by the Department of Personnel on 28th February, 1985, she should be considered for such appointment as envisaged in the said Office Memorandum having regard to the fact that she has already worked for over 11 years from 8.1.1975 to 1.4.1986, and that she has become over-age by now.

(ii) The applicant will not be entitled to any back wages. The period of service rendered by her as ad hoc Stenographer from 8.1.1975 to 1.4.1986, however, will count

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for purposes of pension and that the break in service shall be condoned.

- (iii) The respondents shall comply with the above directions within a period of one month from the date of communication of this order.
- (iv) It is clarified that this will not constitute a precedent.
- (v) The parties will bear their own costs.

*D. K. Chakravarty*  
 (D. K. Chakravarty)  
 Administrative Member  
 2nd March, 1990

*P. K. Kartha*  
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 (P. K. Kartha)  
 Vice-Chairman (Judl.)