

Central Administrative Tribunal  
Principal Bench, New Delhi

Regn. No. OA-158/89

Date: 10.3.1989.

Armed Forces Headquarters .... Applicants  
Stenographers' Association  
(Recognised) represented by  
Shri S.K. Gupta & Another

Versus

Union of India & Another .... Respondents

For the Applicant .... Shri S.K. Gupta, President,  
Armed Headquarters Stenos.  
Association

For the Respondents .... Shri P.H. Ramchandani, Advocate.

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)  
Hon'ble Shri K.J. Raman, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Ans*
2. To be referred to the Reporter or not? *M*

(Judgement of the Bench delivered by Hon'ble  
Shri P.K. Kartha, Vice-Chairman)

The applicants, which is an Association of Stenographers in the Armed Forces Headquarters, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the Armed Forces Headquarters Civil Service Rules, 1968 and all other actions taken in pursuance thereof, including promotions made thereunder, be quashed and set aside being arbitrary, discriminatory and violative of Articles 14 and 16 of the Constitution and that the Stenographers be appointed on 32 posts of Supdts. and ACSO's falling to their quota from due date with all consequential benefits.

2. The application came up for admission on 6.3.1989, when Shri P.H. Ramchandani, learned counsel for the respondents, opposed the admission on the ground that it is hopelessly barred by limitation.

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3. The facts of the case in brief are that the respondents had taken a decision in 1963 to allocate some posts of Assistants Incharge (Superintendents) to the Stenographers with a view to improving their promotional avenues. According to the applicants, there were 25 such posts in 1966. They were not filled from amongst the Stenographers but were filled from Assistants who belonged to Armed Forces Headquarters Civil Service. In this context, the applicants have relied upon an Office Memorandum issued by the respondents on 16th July, 1963 (A-1).

4. The Armed Forces Headquarters Civil Service Rules, 1968 were published on 1.4.1968. The said rules provided, <sup>ACSO</sup> inter alia, for filling up of every 25th temporary vacancy of / by Stenographer Grade I on the basis of selection of persons who have rendered not less than five years' service. This provision existed in the rules till 11th June, 1976, when the Rules were amended providing for filling up of every 25th temporary vacancy in Civil Staff Officer Grade instead of Assistant Civil Staff Officer. It is alleged that this provision also was not complied with as a result of which seven vacancies, which were the legitimate share of the Stenographers, were not filled up by promotion of Stenographers.

5. From 1976, the applicants had been representing against the injustice done to them but to no avail.

6. By letter dated 29th August, 1988 (vide Annexure A-5), the respondents informed the applicants that the 25 posts of Superintendent were allocated to AFHQ Stenographers on the basis of executive orders which were superseded by the AFHQ

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Civil Service Rules, 1968 which came into force w.e.f.

1.3.1968. Consequently, there is no basis for allocating these posts to Stenographers. As regards the allocation of seven unfilled vacancies of ACSO's, it was stated that it is not administratively feasible to allocate these posts at this stage after a lapse of almost ten years and after the rules had been amended w.e.f. 12.6.1976 providing for allocation of every 25th vacancy of CSO to Stenographer Grade 'A'.

7. By letter dated 24th November, 1988 (vide Annexure A-2), the respondents again informed the applicants that it is not possible to make available the unfilled vacancies in the grade of ACSO at this stage.

8. Shri Ramchandani, learned counsel for the respondents, contended that the Tribunal has no jurisdiction to entertain the application as the grievance of the applicants arose prior to 1.11.1982. This is clear from the language of Section 21(2) of the Administrative Tribunals Act, 1985.

9. As against the above, Shri Gupta contended that the grievance of the applicants is a continuing one. In this context, he relied upon the decision of the Bangalore Bench of this Tribunal in Shri G.K. Shenava & Others Vs. Union of India & Others, 1989(1) SLJ (CAT) 1.

10. We have carefully gone through the decision in Shenava's case and we are of the opinion that that decision is clearly distinguishable. In that case, the applicants had sought for quashing certain provisions of the All India Services Act, 1951 and the rules made thereunder. The said Act and the said rules are still on the Statute Book. In view of this, the Tribunal held that a law of Statute Book operates every day and, in fact, every moment. Consequently,

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a person affected by such law suffers injury or grievance every day and every moment.

11. The admitted factual position is that the grievance of the applicants in the instant case arose during the period from 1963 to 1968, when 25 vacancies earmarked for them were not filled up in accordance with the then existing administrative instructions. Those administrative instructions were superseded by the Recruitment Rules of 1968 which held the field from 1968 to 1976. During that period, seven vacancies which were allocated to Stenographers, were not also filled up in accordance with the recruitment rules. The recruitment rules of 1968 were also amended in 1976. Therefore, the decision in Shenava's case is not on all fours with the facts and circumstances of the present case.

12. The applicants have relied upon the letter dated 4th July, 1986 and 28th April, 1987 written by the respondents to the President of the applicant Association. They have also placed before us a copy of the Office Memorandum dated 2nd March, 1989 forwarding therewith the minutes of the meeting of Office Council (JCM) held on 19.12.1988.

13. The letter dated 4th July, 1986 sent by the respondents refers to the earlier letters of the applicants dated 4th January, 1986, 22nd January, 1986, 5th February 1986 and 2nd May, 1986 in regard to their grievances. The reply of the respondents was that there was no basis for allocating 25 posts of ACSOs to Stenographers prior to 1968 and that it was not administratively feasible to allocate the posts of ACSOs at this stage after a lapse of almost ten years since the rules were amended in 1976. The letter dated 28th April, 1987 written by the respondents was in

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reply to the letter of the applicants dated 10th February, 1987 seeking an interview to explain the outstanding grievances. It has been stated in the said letter that the inability to make available seven vacancies of ACSOs to Stenographers had been rejected and the applicants were informed in September, 1985 and July, 1986. It was, however, stated that the issue is "being re-examined as instructed by the CAO". The Office Memorandum dated 2nd March, 1989 refers to the discussion in the J.C.M. on the subject of restoration of backlog vacancies of ACSOs to Stenographers. It is clear from the said Office Memorandum that the respondents did not entertain the demand of the Staff side on the ground that it is belated.

14. In our opinion, repeated representations made by the applicants through various letters and otherwise, will not have the effect of enlarging the period of limitation.

15. In our opinion, the present application is not maintainable in view of the provisions of Section 21 of the Administrative Tribunals Act, 1985. The Tribunal has no jurisdiction to entertain an application in respect of a cause of action which arose prior to 1.11.1982. In such a case, there is no question of even condonation of delay in filing the application. It would be a case of the Tribunal not having jurisdiction to entertain a petition (vide V.K. Mehra Vs. Secretary, Delhi, ATR 1986 (1) CAT 203 and R.L. Bakshi Vs. Ministry of Defence, ATR 1988 (1) CAT 149).

16. In the facts and circumstances of the case, we are of the opinion that the present application is barred by

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limitation. Accordingly, we dismiss the application at the admission stage, leaving the parties to bear their own costs.

K. J. Raman

(K. J. Raman)  
Administrative Member

P. K. Kartha

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