

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA 854/1989

Date of decision: 18.11.1992

Shri Gulshan Kumar Bhatia

...Applicant

Vs.

Chief Producer, Films Division

...Respondents

For the Applicant

...Shri T.C. Aggarwal,
Counsel

For the Respondents

...Mrs. Raj Kumari
Chopra, Counsel

CORAM:

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

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *✓*

2. To be referred to the Reporters or not? *✓*

JUDGMENT

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

We have gone through the records of the case carefully and have heard the learned counsel for both parties. The reliefs sought by the applicant who has worked as Lower Division Clerk in the office of the respondents are as follows:-

(a) To direct the respondents to allow him to sit in the departmental examination for the post of UDC; and
(b) to direct the respondents to publish seniority list giving him seniority w.e.f. 3.10.1978.

✓

2. The applicant was appointed to officiate as Lower Division Clerk with effect from 3.10.1978 in a leave vacancy as a permanent incumbent had been granted maternity leave for 90 days from 1.10.1978 to 29.12.1978. In the offer of appointment issued to him, it had been stipulated that the appointment was purely temporary and on ad hoc basis. He had been sponsored through the Employment Exchange. He was continued in the said post till his services were regularised w.e.f. 13.11.1985.

3. The stand of the respondents is that regular appointment of LDCs in the direct recruitment quota is by nominees of the Staff Selection Commission. The contention of the applicant is that at the time of his appointment, there was no such requirement and that no such stipulation had been made in the offer of appointment.

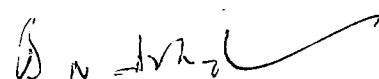
4. The admitted factual position is that the applicant, on his own, appeared in the examinations held by the Staff Selection Commission in 1982 and 1985. In 1982, he did not qualify but in 1985 he qualified. Thereafter, the respondents appointed him on a regular basis w.e.f. 13.11.1985.

5. Having voluntarily appeared in the examination held by the Staff Selection Commission twice ~~and~~ and without any protest, we are of the view that the

applicant cannot now raise the contention that qualifying in the said examination is not a pre-requisite to regularisation.

6. The mere fact that the applicant has worked on ad hoc basis in the post of LDC from 1978 to 1985 does not confer on him any right to seniority from 1978. Where the initial appointment is only ad hoc and not according to the rules and made as a stop gap arrangement, the officiation in such post cannot be taken into account for considering the seniority (Vide Direct Recruit Class II Engineering Officers Association Vs. State of Maharashtra, 1990 SCC(L&S) 339).

7. In view of the above, we are of the opinion that the applicant is not entitled to the reliefs sought by him. The application is, therefore, dismissed. There will be no order as to costs.


(B.N. DHOUNDIYAL)
MEMBER(A)
18.11.1992


(P.K. KARTHA)
VICE CHAIRMAN(J)
18.11.1992

RKS
18.11.1992