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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A. NO.1331/88

New Delhi this the 24th day of December, 1993

CORAM :

THE HON'BLE MR. JUSTICE B. C. SAKSENA, VICE CHAIRMAN  
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

1. Shri Mohinder Singh  
Ministry of Steel & Mines,  
(Department of Steel),  
Udyog Bhawan, New Delhi.
2. Mange Ram,  
Ministry of Steel & Mines,  
(Department of Steel),  
Udyog Bhawan, New Delhi.
3. Mir Singh,  
Ministry of Steel & Mines,  
(Department of Steel),  
Udyog Bhawan, New Delhi.
4. Ram Kumar,  
Ministry of Steel & Mines,  
(Department of Steel),  
Udyog Bhawan, New Delhi.

Designation & Office in which  
employed :

Working as L.D.C.s under the  
Ministry of Personnel & Training,  
Department of Personnel,  
Public Grievances & Pensions,  
North Block, New Delhi. ...

Applicants

By Advocate Shri Jog Singh

Versus

1. Union of India through  
Secretary, Ministry of  
Steel & Mines (Department  
of Steel), Udyog Bhawan,  
New Delhi.
2. The Secretary,  
Ministry of Personnel & Training,  
Department of Personnel,  
Public Grievances & Pensions,  
North Block, New Delhi. ...

Respondents

By Advocate Ms. Pratima Mittal,  
Proxy for Shri K. C. Mittal

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O R D E R

Hon'ble Mr. Justice B. C. Saksena —

The four applicants in this application seek quashing of an order dated 28.6.1988 reverting them from the post of L.D.C. to Group 'D' post. They have also sought a direction to be issued to the respondents to regularise the applicants on the post of L.D.C. and to allow them other consequential benefits such as continuance of service and seniority etc. They have also prayed that the respondents be directed to consider them eligible for promotion to the next higher post of U.D.C.s/Dealing Assistants.

2. The brief facts pleaded in the application are that the applicants were appointed as Group 'D' employees in the Ministry of Steel & Mines (Department of Steel) in the year 1971-72 and 1981. They were appointed/promoted on the post of L.D.C. in the years 1979, 1981 and 1984. The case of the applicants is that they fulfil the educational standards prescribed by the respondents for the post of L.D.C. and were subjected to typing tests conducted by the Staff Selection Commission or by the Ministry of Steel and Mines. They have further alleged that the applicants have crossed the efficiency bar which was allowed on the basis of their extremely good confidential reports. They have also earned their annual increments. They have alleged that their reversion after many years of service as L.D.C.s is inhuman and humiliating. The applicants have also alleged that they are on the

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verge of next promotion to the posts of U.D.C. and Dealing Assistants and if they are reverted to perform Group 'D' services it would be violative of Articles 14, 16, 19 and 21 of the Constitution. The respondents have filed a reply in which they have indicated that the reversion order has been passed in response to Government directions contained in Deptt. of Personnel & Training Office Memorandum dated 10.5.1988. The respondents also stated that the applicants were promoted on ad-hoc basis to the grade of L.D.C.s till such time as they could be replaced by qualified candidates nominated by the Deptt. of Personnel & Training on the basis of the results of the Clerks Grade Examinations conducted by the Staff Selection Commission from time to time. It has been further stated that Mohinder Singh, Mange Ram and Mir Singh have officiated as L.D.C.s on ad-hoc basis from the date of their respective promotion till the date of their reversion. In respect of Ram Kumar, it has been averred that he was reverted on 3.6.1985 as a regular candidate recommended by the Staff Selection Commission became available. He was, however, re-promoted as L.D.C. on ad-hoc basis w.e.f. 8.10.1985. The respondents have denied the allegation that the applicants have crossed the efficiency bar. It has been indicated that only Mohinder Singh has crossed the efficiency bar w.e.f. 26.10.1985 at the stage of Rs.290/- in the pay scale of Rs.260-400. Ram Kumar alone has gained annual increments in the grade of L.D.C.; Mange Ram and Mir Singh had been granted only one increment in the grade of L.D.C. and thereafter their annual increments were withheld in view of the

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fact that these two applicants had not qualified the typing test conducted by the Staff Selection Commission.

3. The respondents' further stand is that according to the Central Secretariat Clerical Service Rules, 1962, 10 per cent of the vacancies of L.D.C.s in the Secretariat Clerical Service are earmarked for being filled from amongst educationally qualified and eligible Group 'D' employees -- 5 per cent on the basis of seniority and 5 per cent on the basis of the results of Clerks Grade Examination for Group 'D' staff. The claim of the applicants for regularisation has been termed as misplaced and it has been averred that the applicants can be regularised only in the vacancies earmarked for being filled up out of the two quotas mentioned above. It has further been stated that Mohinder Singh alone is within the range of seniority for making regular appointment to the grade of L.D.C. in Central Secretariat Clerical Service Cadre with the Department of Steel. The other three applicants have not been included in this range. Action for appointment of Mohinder Singh as a regular LDC is stated to be underway.

4. Reply to the legal grounds have also been given which will be considered while considering the submissions of the learned counsel for the parties. The applicants have also filed a rejoinder. We have heard the learned counsel for the parties.

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5. The learned counsel for the applicant invited our attention to the judgment rendered on 12.4.1991 in four connected O.A.s, the leading one being O.A. No. 668/88 - Ved Prakash & Ors. vs. Union of India through Secretary, Ministry of Urban Development & Ors. In the said O.A.s also the applicants were working as L.D.C.s on ad-hoc basis for several years ranging from eight to eleven years since 1979. They had challenged the reversion order and sought a direction for their regularisation in the post of L.D.C. w.e.f. their initial date of promotion. A Division Bench of this Tribunal considered the pleas advanced by the parties and relying on the decision of the Supreme Court in Dr. A. K. Jain & Ors. vs. Union of India & Ors. 1987 SCC 497, directed the respondents therein to take immediate steps to regularise the services of the applicants as L.D.C.s in consultation with the Staff Selection Commission. It was also provided that while doing so, they shall, if necessary, relax the upper age limit for appointment as L.D.C. It was further provided that till the applicants were regularised, they shall not be reverted from the post of L.D.C. to Group 'D' posts. An S.L.P. against the aforesaid judgment was dismissed by the Supreme Court on 29.7.1991. The decision in Ved Prakash's case (supra) was followed in O.A. No. 1153/91 decided on 31.7.1992. The learned counsel for the respondents has placed for our consideration the Central Secretariat Clerical Service Rules, 1962 which came into force on 0.11.1962. Rule 12 of the said Rules provides for 10 per cent

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of the vacancies in each cadre to be filled up by appointment, by promotion, of Group 'D' employees (borne on regular establishment) working in the Ministries and Offices participating in the Central Secretariat Clerical Service. Out of the 10 per cent, 5 per cent are to be filled up on the basis of qualifying examination held for the purpose by the Staff Selection Commission and 5 per cent on the basis of seniority subject to rejection of the unfit from amongst Group 'D' employees who are within the range of seniority prescribed by the Department of Personnel and Administrative Reforms and are educationally qualified for appointment as L.D.C.s. These rules were amended by notification dated 16.4.1993. In clause (a) of Rule 12(1) instead of 10 per cent, 15 per cent was substituted and in clause (a) in item (i) for the words '5 per cent', the words '10 per cent' were substituted, and in clause (b) for the words '85 per cent', the words '80 per cent' were substituted. The learned counsel for the respondents also placed a letter dated 24.5.1993 by which the strength of the various posts in the Ministry of Steel & Mines was indicated. At item No. 22, the post of L.D.C. has been shown and it has been indicated that the sanctioned strength for the said post as on 1.1.1992 was 47. 8 posts were abolished after 1.1.1992 upto 31.3.1993. Thus, the extant cadre strength of the post of L.D.C.s would be 39. The learned counsel has further placed a chart indicating that three direct recruit candidates

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from the Clerks Grade Examination, 1991 whose appointments are pending for want of regular vacancies.

6. It is relevant to mention at this stage that at the initial stage of the filing of the O.A. there was a direction that the applicants shall be allowed to continue on their duties as L.D.C.s till further orders and the said interim order was made absolute and was directed to continue during the pendency of the O.A. Thus, the applicants have continued on the post of L.D.C.s because of the interim order passed on 22.7.1988 by this Tribunal. The learned counsel for the respondents has also placed up-to-date seniority list of Class-IV employees as on 1.4.1993. On the basis of the said seniority list, it was urged that except for Mohinder Singh, applicant No.1 herein, all the three other applicants do not fall in the field of eligibility according to their seniority position for being promoted to the post of L.D.C. in a regular manner.

7. In the background of these facts and after having given our anxious consideration to the view taken in the case of Ved Prakash (Supra), we are of the opinion that since recruitment to the post of L.D.C. in the Central Government offices is governed by the Central Secretariat Clerical Service Rules, 1962, the appointment of regularisation on the post of L.D.C. of the applicants who were appointed admittedly on ad-hoc basis <sup>can</sup> ~~and~~ <sub>be</sub> only be in consonance with the said Rules. As per the amended provisions

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of the Service Rules, promotion is confined to 15 per cent of the vacancies and the applicants can claim to be considered for regularisation only to the extent of the promotion quota prescribed in the said Rules.

8. It has also been stated at the Bar that in view of the reply of the respondents, Mohinder Singh has become eligible and his case for regular appointment on the post of L.D.C. is under consideration. It was also indicated that Mange Ram has sought voluntary retirement, but still no decision has been taken on his request. That leaves two applicants. According to the seniority list filed by the respondents, they are too low in the seniority position to be in the eligibility list for promotion under the prescribed promotion quota. At the same time, we are conscious of the fact that the applicants have put in considerable number of years of service and because of the interim order they have also continued, their reversion having been stayed. We, at the same time, feel it <sup>is</sup> ~~must~~ be a case of misplaced sympathy to ignore the fact brought to our notice by the respondents that three direct recruits who have qualified the Clerks Grade Examination, 1991 are expecting their appointment and because of the interim order they have not been given appointments so far. We accordingly are of the opinion that the application be disposed of with the following orders and directions :-

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- (1) The respondents are directed to take immediate steps to regularise the services of the applicants as L.D.C.s in consultation with the Staff Selection Commission against the posts falling within the promotion quota. While doing so, they shall, if necessary, relax the upper age limit for appointment as L.D.C. Their regularisation is being directed on the basis of their having put in continuous service as L.D.C.s on ad-hoc basis and their regularisation will be considered on the basis of evaluation of their work and conduct based on the annual confidential reports.
- (2) If no posts in the promotion quota are available against which the applicants could be regularised, we direct that the respondents may consider the question of their continuance on ad-hoc basis till their regularisation against the posts of L.D.C. if <sup>any is</sup> available in the Ministry of Steel & Mines and its attached offices.
- (3) The respondents, if they fail to find out any posts within the promotion quota for Group 'D' employees for promotion to the post of L.D.C. in the Ministry of Steel & Mines or its attached offices, shall be at liberty to revert such of the applicants for whom posts, as directed above, would not be available.
- (4) We further provide that till such time the respondents complete the above process, the

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applicants shall be allowed to continue on ad-hoc basis pending regularisation of their services as contained in direction No. (1) above.

9. The respondents shall comply with the above directions within a period of three months from the date of receipt of this order. There shall be no orders as to costs.

*S. R. Adige*  
( S. R. Adige )  
Member (A)

*B. C. Saksena*  
( B. C. Saksena )  
Vice-Chairman (J)

/as/