

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Regn. No. OA 1883/1988

Date of decision: 04.09.1992

Mrs. Renu Sehgal

Applicant

Vs.

Union of India & Another

Respondents

For the Applicant

Shri D.R. Gupta,
Counsel

For the Respondents

Shri P.P. Khurana,
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? *Yes*

2. To be referred to the Reporters or not? *No*

JUDGMENT

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

The issue arising for consideration in this application is whether a person appointed to the post of Lower Division Clerk on ad hoc basis and pending regular appointment through nominees of the Staff Selection Commission (S.S.C.) develops any right to hold the post or to regularisation in the post by mere efflux of time and without qualifying in the examination conducted by the SSC.

2. We have gone through the records of the case and

have heard the learned counsel for both parties. The learned counsel for the applicant has relied upon numerous rulings* and we have duly considered them. In the instant case, in the initial order of appointment of the applicant as LDC issued on 23.11.1982, it was stipulated that she was temporarily appointed on ad hoc basis in Dr. Ram Manohar Lohia Hospital and that the appointment was for a period of 3 months w.e.f. 22.11.1982 or till the regular candidate is appointed through Staff Selection Commission whichever is earlier. It was also added that the ad hoc appointment will not bestow on her any right to claim for regular appointment to the post of LDC. She joined the post well aware that sooner or later she will have to vacate the post when nominees of the Staff Selection Commission who are the regular appointees report for duty. In view of this, the judicial pronouncements relied upon by the learned

* Rulings relied upon by the learned counsel for the applicant:-

1991(16) ATC 417; 1991(15) ATC 254; 1992(19) ATC 292; 1991(18) ATC 338; 1983 (1) SLR 38; Decisions of this Tribunal dated 15.2.1992 in Shyam Sunder Verma & Others Vs. Union of India (OA 2752/1990 and connected matters); Decision of the Tribunal dated 26.4.1991 in OA 2472/1990 - Shiv Nath Yadav Vs. Union of India, Decision of the Tribunal dated 12.4.1991 in OA 568/1988 and connected matters; Decision of the Tribunal dated 31.1.1992 in OA 1483/91; Decision of the Tribunal dated 31.7.1992 in OA 1153/92.

counsel for the applicant are clearly distinguishable.

3. The applicant continued in the post of ad hoc LDC from 22.11.1982 to 8.5.1991 when her services were terminated consequent upon joining of an LDC nominated by Staff Selection Commission. The Tribunal had passed an interim order on 24.11.1988 directing the respondents to continue her in service till a nominee of the Staff Selection Commission becomes available. By order dated 6.3.1992, the Tribunal clarified that the purport of the aforesaid order is that her services shall not be dispensed with so long as the respondents need the services of LDCs and so long as her juniors have been retained in service. It was added that the applicant and any person similarly situated who were working on ad hoc basis can be relieved of their duties when the nominees of the Staff Selection Commission join duty. In that event, the termination should be strictly on the basis of the length of service put in by the ad hoc employee concerned, following the principle of "last come first go".

4. The reliefs sought in the present application are that the respondents be directed to regularise her appointment as LDC with retrospective effect from the date of her initial appointment, that they be restrained from terminating her services and that she be assigned seniority in the cadre of LDC according to her initial

appointment as relief consequential to her prayer for regularisation. By virtue of holding the post for over 8 years, she is praying for the aforesaid reliefs. According to her, she had qualified in the typing test and she is fully eligible to hold the post of LDC like the others nominated by the SSC. According to the respondents, regular appointment of LDC is made through SSC and she has not qualified in the examinations held by the SSC.

5. In our opinion, the applicant is not entitled to the main reliefs sought by her as she had admittedly not qualified in the examinations held by the SSC for the post of LDC. Having regard to the service already rendered in the post of LDC, she is, however, entitled to claim appointment to the posts of LDC which may be lying vacant for want of nominees of the SSC and till such nominees join duty. In case any such vacancies exist or arise in the future, the respondents shall offer her appointment as LDC on ad hoc basis if ^a xxxx they propose to fill up the post of LDC and in preference to persons with lesser length of service. In that event, ^a and outsiders, she may be relieved from such ad hoc appointment when all the nominees of the Staff

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Selection Commission join duty. The termination should be strictly on the basis of the length of service put in by the ad hoc employee concerned, following the principle of "last come first go". The application is disposed of on the above lines, leaving the parties to bear their respective costs.

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(B.N. DHOUDIYAL)
MEMBER (A)
01.09.1992

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(P.K. KARTHA)
VICE CHAIRMAN (J)
01.09.1992

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