

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2074 / 1988
~~10000~~

DATE OF DECISION 30-11-1989

Mrs. Mamta Arora & Others Applicant (s)

Mr. G.D. Gupta Advocate for the Applicant (s)

Versus

Union of India & Others Respondent (s)

Mr. A.K. Sikri Advocate for the Respondent (s)

CORAM :

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

The Hon'ble Mr. I.K. Rasgotra, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *NO*

JUDGEMENT

(delivered by Hon'ble Shri I.K.Rasgotra, Member)

The applicant and 3 others have jointly filed this application seeking relief against ICAR Memorandum No.17-8/88-E-II dated 24-10-88, Annexure F to the Application, requiring them to appear for shorthand test at the speed of 80/100 w.p.m. on 29-10-88 in the Staff Selection Commission's building, New Delhi to assess the prescribed speed. The applicants also applied for ad-interim relief to stay the operation of the impugned Memorandum dated 24-10-88 for holding the shorthand test scheduled to be held for 29-10-88. The Tribunal heard the matter on 27-10-88 and stayed the operation of the impugned order dated 24-10-88 for 10 days from that date, which was extended till further orders subsequently. The case was heard on 10-11-89 finally.

8

2. The facts of the case are that the respondents held an open competitive examination in Sept./Oct. 1987. Based on the result of the examination an offer of appointment was issued to applicant No.1 vide Annexure B of the application (similar letters of appointments were issued to the other applicants). From the panel of 20 candidates selected, 12 candidates were issued offer letters. After ^{the} finalising the formalities, the appointment order was issued on 5-11-88 (Annexure C of the application). On 19th Aug. 1988, the applicants, appointed as Stenographer Grade III in ICAR, were asked to appear again for the shorthand test to be held on 23-8-88 in ICAR. The applicants represented against the order requiring them to appear in the Stenography test again without assigning any reason at a short notice. Consequently the examination was cancelled. Subsequently vide the impugned Memorandum dated 24-10-88 (Annexure F to the application) all the Stenographer Grade III appointed on the basis of the examination held in Sept./Oct. 1987 were again asked to appear in the stenography test on 29-10-88 in the Staff Selection Commission, New Delhi.

3. It is observed that the stenography test was proposed to be held on account of the confidential complaint addressed to the Chairman, Headquarters, Joint Staff Council & Secretary, ICAR by Shri Bhagwan Das, Secy (staff side) vide confidential letter dated ^{at} 31-12-88. The Director General, ICAR remarked ^{at} on the body of the letter "This is a very serious matter. I would like to discuss with Secretary ICAR & Secretary (staff) Headquarters Joint Staff Council".

4. The complaint of the Secretary staff side, however, does not bring any specific allegation as is observed from the letter - relevant portion extracted below:-

"It has come to our notice that fair & foul means have been adopted in the said examination and persons related/closely known to the various officers of the Council have been appointed. If desired, names of such persons known to us can be quoted personally. With a view to maintain efficiency in the council and to avoid "BHAI BHATIJA WAD", I would request that the matter may kindly be investigated. I would also request that the persons so selected and who have already joined the service of the Council may again be put to test in shorthand and typing in order to assess their capability and suitability".

5. We have heard the learned counsel for ^{the} ~~the~~ both ^{the} parties and gone through the record carefully. We are of the opinion that before taking any action on the confidential complaint mentioned above, a fact finding investigation should have been conducted to determine if a prima facie case existed. Further course of action should have been decided on the basis of an investigation report. No investigation seems to have been carried out in the matter except purported discussion between Director General ICAR and Secretary ICAR and Secretary Staff side. It is also observed that confidential complaint is dated 31-12-87, whereas the office order appointing the candidates provisionally was issued on 5-1-88, Annex-
ture C,P.27 of the application. If as a result of preliminary discussion a prima facie case of irregularities having been committed in conducting the open competitive examination was found to exist, the issue of appointment letters should have been held in abeyance and fresh test conducted after cancelling the original test, if such a course was justified on the facts of the complaint. There appears to be no justification for issuing the appointment letter on 5-1-88 when the complaint was being viewed seriously. Be that as it may, the fact remains that applicants were appointed on the basis of

Ln

selection made after holding an open competitive examination. They have been in the employment of the respondents for about two years. In the absence of any adverse comments on the work of the applicants, it is reasonable to assume that their work is to the satisfaction of the respondents. No material has been produced before us by the respondents to indicate that the performance of these applicants was not satisfactory.

6. We therefore quash the impugned order and direct that the applicants should be treated to have been appointed as Stenographer Grade III against temporary posts after having been duly declared successful in the open competitive examination held in Sept./ Oct. 1987. Nothing said herein, however, will preclude the respondents from conducting proper investigation into the complaint made by the Secretary, staff side and taking action under the normal operation of Rules.

The parties will bear their own costs.

I. K. Rasgotra
(I. K. Rasgotra)
Member
30/11/87

P. K. Kartha
30/11/87
(P. K. Kartha)
Vice-Chairman