

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

DA NO. 1215/88

DATE OF DECISION: 13.8.1990

SHRI K.K. DAWAR

APPLICANT

VERSUS

UNION OF INDIA

RESPONDENTS.

SHRI B.K. AGGARWAL

ADVOCATE FOR THE APPLICANT

SHRI P.H. RAMCHANDANI

SENIOR ADVOCATE FOR THE RESPONDENTS

CORAM:

THE HON'BLE MR. G. SREEDHARAN NAIR, VICE-CHAIRMAN

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

JUDGEMENT

(DELIVERED BY HON'BLE MR. I.K. RASGOTRA, MEMBER (A))

Applicant Shri K.K. Dawar, Lower Division Clerk (LDC) has filed this application, aggrieved by order No.PF.10388-Admn. dated 25.2.1988, rejecting his claim for counting adhoc/temporary but continuous service for the purpose of eligibility for the Upper Division Clerk (UDC) Grade Limited Departmental Competitive Examination (LDCE). The applicant's prayer for interim relief made through MP No. 1856/89 was considered by the Tribunal on 6.9.1989 and the respondents were directed "to forward the application of the petitioner to the Staff Selection Commission before 11.9.1989 provisionally", but the result of the examination was not to be published until further orders.

2. The case of the applicant is that he was promoted as LDC on adhoc basis in the Directorate of Estates, Wing of the Central Public Works Department (CPWD) for a period of three months vide order dated 10.3.1981 (page 11 of the paper book). He continued as LDC on adhoc basis till he was selected as LDC on the basis of Clerks Grade Examination, 1985 by the Staff

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Selection Commission and appointed as LDC vide Ministry of Communication letter No.A-12220/86-Admn. dated 5.3.1987. He joined the Ministry of Communication on 1.4.1987 without any break. Soon thereafter applicant showed his keenness to appear in the Upper Division Clerks Grade LDCE held by the Staff Selection Commission annually for recruitment as UDC, and asked the respondents to confirm his eligibility for the LDCE for the post of UDC, taking into consideration his service as adhoc LDC since 28.2.1981. He was advised on 25.2.1988 (page 19 of the paper book) that adhoc service rendered by the applicant would not count for the purpose of eligibility for the post of UDC Grade Limited Departmental Competitive Examination. Aggrieved by the order of the respondents he filed this application under Section 19 of the Central Administrative Tribunals Act, 1985. The applicant feels that the interpretation of the eligibility condition given by the respondents was erroneous. By way of relief the applicant has prayed that the Tribunal may declare that the applicant fulfils the eligibility condition of five years of "approved and continuous service" as laid down in Central Secretariat Clerical Service (C.S.C.S) Rules, 1962.

3. Advocate, Shri B.K. Aggarwal, appearing for the applicant drew our attention to C.S.C.S. (Lower Division Grade Qualifying Examination for Group 'D' Staff) Regulations, 1969 and submitted that the C.S.C.S. Lower Division Grade Examination was only a qualifying examination. The success of the applicant in this examination merely signifies that he is entitled to regularisation in the post of LDC held by him on adhoc basis and adhoc L.D.C. service followed by qualification for regularisation as

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LDC should count for eligibility for U.D.C. examination. The qualifying examination does not interrupt the continuity of service. In support of his case the learned counsel cited ATR-1986 (2) CAT, 346 S.C. Jain Vs. Union of India and Others and 1990 (1) ATLT Guwahati High Court 442 Chongthan Tiken Singh Vs. State of Manipur & Others.

The first citation deals with the case of the petitioner who was working as Technical Assistant in the National Institute of Communicable Diseases under the Ministry of Health and Family Welfare. He was thus working in a subordinate/attached office and was looking forward to confirmation, promotion etc. in the same cadre. The second citation again relates to a similar case where adhoc promotion on subsequent regularisation is in the same cadre. Both the cases are therefore distinguishable.

4. The learned counsel for the respondents submitted that recruitment and conditions of service of the C.S.C.S are regulated under the Statutory Rules and Regulations. Rule-4 of C.S.C.S (Upper Division Grade L.D.C.E. Regulations, 1966) prescribes that persons having rendered not less than 5 years "approved and continuous service in the Lower Division Grade of the service" shall be eligible to appear at the examination. The service as Lower Division Clerk, has to be rendered in the C.S.C.S. The service will constitute "approved service" only when the same is rendered in the C.S.C.S. Service rendered in similar grade in subordinate or attached office on adhoc basis outside the C.S.C.S. cannot be deemed as "approved service", as it contravenes Statutory Rules.

5. We have considered the arguments of the learned counsel of both the parties, the records and documents placed before us. Admittedly, the applicant was working

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as a LDC on adhoc basis in the Directorate of Estates (CPWD Wing), when he chose to appear at the L.D.C.E. in terms of Rule-12 of the C.S.C.S. Rules, 1962, which is reproduced below:-

"Recruitment to the Lower Division Grade of the Service:-

(1) Vacancies in the Lower Division Grade shall be filled in the following manner, namely:-

(a) Ten per cent of vacancies in each cadre may be filled by appointment, by promotion, of Group 'D' employees (borne on regular establishments) working in the Ministries and Offices participating in the Central Secretariat Clerical Service, in the following manner, namely:-

(i) Five percent of the vacancies may be filled on the basis of qualifying examinations held for this purpose by the Staff Selection Commission; and"

.....

He appeared in the 1985 examination conducted by the Staff Selection Commission in accordance with the Rule-12 as above, and after being declared successful, joined the Ministry of Communication on 1.4.1987 in terms of that Ministry's order dated 5.3.1987. He was thus recruited to the Lower Division Grade of the Service only in 1987 w.e.f. 1.4.1987. Lower Division Grade Examination conducted by the Staff Selection Commission was not conducted for regularisation of the applicant in the grade but for recruitment to the Lower Division Grade of the C.S.C.S. from Group 'D' source as provided in the Rules. The approved and continuous service in the Lower Division Grade of the Service will thus count for the purpose of eligibility to the Upper Division Grade L.D.C.E., only

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from the date the applicant joined in the Lower Division
Grade of the Service. He cannot, claim the benefit of
adhoc service rendered in a subordinate/attached office,
even though in an identical capacity. In the facts and
circumstances of the case, we do not find any merit in the
application which accordingly is rejected.

There will be no orders as to the costs.

Ably
(I.K. Rasgotra)
Member (A) 3/8/1990

12-8-1990
(G. Sreedharan Nair)
Vice-Chairman