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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1246/88

New Delhi this the 31st day of January, 1994

CORAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. S. R. ADIGE, MEMBER (A)

Mrs. Sneh Lata W/O Jawahar Lal,
Junior Stenographer, Office of
Official Liquidator,
16, Ring Road, I.P. Estate,
New Delhi - 110002.

... Applicant

By Advocate Mrs. Avnish Ahlawat

Versus

1. Union of India through
the Secretary, Ministry
of Industry and Company Affairs,
5th Floor, A-Wing, Shastri Bhawan,
Dr. Rajendra Prasad Road,
New Delhi.
 2. The Regional Director,
Company Law Board,
Kanpur.
 3. Official Liquidator, attached to
the High Court of Delhi,
Bharat Scouts and Guides Building,
16, Ring Road, I.P. Estate,
New Delhi.
- ... Respondents

By Sr. Standing Counsel Shri N. S. Mehta

O R D E R (ORAL)

Hon'ble Mr. Justice V. S. Malimath --

The petitioner, Smt. Sneh Lata, was a Company-paid-Assistant in the office of the Official Liquidator. There was a need for the services of a Junior Stenographer. The petitioner was appointed with effect from 10.1.1986 until further orders. She says that this was done after the authorities took the test and were satisfied about her competence. She apprehended in the year 1988 that her services are likely to be

terminated. She, therefore, approached this Tribunal with this application on 7.7.1988 praying for a direction restraining the respondents from terminating her services and for a further direction to regularise her services. She obtained an interim order in her favour to protect herself from being subjected to termination. The respondents, on the other hand, have taken the plea that there was no regular appointment of the petitioner and that having regard to the exigencies of service she came to be appointed on ad hoc basis, for which sanction was accorded by the authorities, copy of which has been produced. As the petitioner's appointment was only ad hoc and not regular, it is contended that the services of the petitioner are liable to be terminated as and when it becomes necessary on a regular incumbent duly qualified and selected becoming available. It is further contended that the petitioner has not acquired any right either to continue in service or for regularisation under any provisions of law.

2. Though the petitioner has asserted that her appointment was on regular basis, it is not possible to accede to that contention. If her appointment was on regular basis, she would not have asked for a direction to regularise her services. Besides, the sanction accorded by the authorities, copy of which has been produced in this case, dated 5.2.1986, it appears that the sanction was accorded for making only ad hoc appointment. The respondents have stated that the copy of the said order was served on the

petitioner, which fact has no doubt been controverted by the petitioner. There is, however, no reason to disbelieve the statement of the respondents in this behalf. Though the order of appointment does not in terms describe the appointment as 'ad hoc', it says that her appointment is 'until further orders'. This should not have normally been the phraseology if it was a regular appointment. Besides, we have material that the sanction was only for the purpose of making ad hoc appointment. The material produced by the parties also does not indicate that the petitioner was recruited on a regular basis after a due selection after inviting applications and taking the required test. It is rightly brought to our notice by Shri Mehta, learned counsel for the respondents, that such posts are required to be filled up by holding a competitive test by the Staff Selection Commission in accordance with the relevant standing orders in this behalf. No such procedure was adopted when the petitioner was appointed. We have, therefore, no hesitation in agreeing with the contention of the respondents that the appointment of the petitioner was only ad hoc and not regular. The order of appointment is dated 10.2.1986 and the petitioner approached this Tribunal for the aforesaid relief on 7.7.1988. In this background, it is not possible to take the view that the petitioner has made out a case that she has a legal right for regularisation or against termination of her services.

3. Be that as it may, now that we are disposing of this matter in the year 1994 and the petitioner has continued to serve all these years satisfactorily,

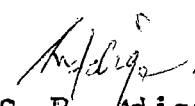
justice and equity do merit appropriate directions being issued having regard to the special facts and circumstances of this case. The petitioner is now age barred. She obviously believed that she would succeed in this case and did not take the test in the meanwhile. At the same time, interest of the administration must be safeguarded to the extent of ensuring that they have the services of a person who has the requisite competence to discharge the responsibilities of the post. Bearing these considerations in mind, we consider it appropriate to issue directions to the respondents as follows —

The petitioner shall take the first available Staff Selection Commission test for selection to the post of Junior/Grade 'D' Stenographer. The Staff Selection Commission on the petitioner making an application for that purpose enclosing a copy of this order, permit her to take such a test without raising any objection on the ground that she is not eligible being age barred. In the event of the petitioner meeting the minimum requirement of passing the said test, the result shall be communicated by the Staff Selection Commission to the respondents whereupon they shall proceed to make a regular appointment of the petitioner with effect from the date of the order. In the event of the petitioner not taking the first available test or taking the test and failing in the same, the respondents shall proceed to terminate her services. It is obvious that in the event of the petitioner being appointed she would be entitled to

count her service for the purpose of seniority only from the date of regular appointment in pursuance of the directions issued in this case.

4. This application is accordingly disposed of with the aforesaid directions.

Let a copy of this order be also sent to the Staff Selection Commission, New Delhi.


(S. R. Adige)
Member (A)


(V. S. Malimath)
Chairman

/as/