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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.560/86

Date of decision: 20th July, 91

Shri Rakesh Sharma

...

Applicant

versus

Union of India & Ors.

...

Respondents

CORAM:

THE HON'BLE MR.T.S.OBEROI, MEMBER(J)

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

For the Applicant

...

Sh.K.L.Bhandula,
Counsel.

For the Respondents

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Sh.M.L.Verma, Counsel.

1. Whether local papers may be allowed to see the Judgement? Yes

2. To be referred to the Reporter or not? Yes

JUDGEMENT

(DELIVERED BY HON'BLE MR.T.S.OBEROI, MEMBER)

The applicant in this OA filed under Section 19 of the Administrative Tribunals Act, 1985 is aggrieved by Memorandum dated 2.6.1992 whereby he was declared to be ineligible for promotion as Personal Assistant.

2. The brief facts of the case as given in the OA are as under. The applicant joined service as a Lower Division Clerk in 1972 in the President's Secretariat, in which post he has been confirmed. Vide Officer Order dated 25.1.1983, he was appointed as Hindi Stenographer Grade-III with effect from 24.1.1983 until further order subject, however, to the condition that if he failed to qualify in the test for Hindi Stenography at the speed of 80 words per minute and in typewriting 30 words per minute, within three months, he will be reverted to his substantive post. He qualified in the Hindi Stenography

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vide Office Order dated 25.6.1983. The speed of 80 words per minute in English Shorthand with 40 words per minute in English ^{typing} / was the desirable qualification for the aforesaid post. For promotion to the post of Personal Assistant, he is being declined opportunity on the ground that he does not possess knowledge of English Stenography though under the recruitment rules he is in the direct line of promotion and the rules for the said post do not distinguish between the Stenographer Grade III of English and Hindi languages. He has cited many instances when English & Hindi Stenographers had been treated at par and were promoted as Personal Assistant. The applicant has expressed his willingness to acquire proficiency in English Stenography and wished to undergo training for this purpose. He claims to be eligible for promotion as Personal Assistant on the ground that he is the senior-most Stenographer Grade III with more than three years' requisite service; the recruitment rules do not differentiate between Hindi & English Stenographers Grade III; the policy of Govt. of India to encourage Hindi; he should not be allowed to stagnate on this post throughout his life and that there is a common cadre of Hindi and English Stenographers in the Central Secretariat Service. It is also averred that the posts of P.A. and Stenographers Grade III are interchangeable and postings are made according

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to administrative convenience. He has,therefor, prayed for a direction to declare him eligible for promotion as Personal Assistant.

3. The respondents have filed their counter-affidavit opposing the claim of the applicant on the ground: inter alia that the applicant not being Stenographer Grade III in English is not eligible to be promoted as Personal Assistant in accordance with the President's Secretariat(Recruitment and Conditions of Service) Rules,1976; the petitioner being the holder of a substantive post of Lower Division Clerk, his line of promotion is in the cadre of Upper Division Clerk/ Assistant etc. and not the Personal Assistant; the petitioner is not interested in undergoing training for the English shorthand as earlier also he did not attend the training on one pretext or the other; acquiring of proficiency in English stenography is a pre-condition for promotion as Personal Assistant and it is not to be acquired subsequently after promotion as per the rules; it is nowhere mentioned in the rules that Hindi Stenographer Grade-III is eligible for promotion as Personal Assistant; the question of denial of promotion arises when a person is eligible for such promotion and not otherwise; the posts of Personal Assistant and Stenographer Grade-III are not inter-changeable; and that since there is no sanctioned post of Hindi Stenographer Grade-III in

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the President's Secretariat, therefore, the appointment of the applicant is to be treated as ad hoc in nature. In view of the above, the respondents have prayed for dismissing the OA.

4. The applicant has also filed a rejoinder reiterating the same pleas as put forth in the OA.

5. We have heard the learned counsel for both parties. We have also carefully perused the material on record.

6. The learned counsel for the applicant argued that being a post of general cadre of Stenographer Grade-III, all the Stenographers whether English or Hindi should be treated at par and the action of the respondents in not doing so is discriminatory and violative of Article 14 & 16 of the Constitution of India. He further submitted that the applicant never refused to undergo training for stenography, however, he had to discontinue it due to certain personal reasons. He further stated that the Constitution of India as well as the Official Languages Act provide for promotion of Hindi. The learned counsel further stated that the applicant will stagnate in the post of Steno Grade-III in Hindi if he is not promoted as Personal Assistant and that his line of promotion is not UDC or Assistant as he has opted for a career in Stenography.

7. The learned counsel for the respondents rebutted the contentions raised by the learned counsel for

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the applicant and submitted that the job of a Personal Assistant is very important and it is essential that the person concerned is proficient in English stenography at the requisite speed and experience as per recruitment rules.

7. The post of Stenographer Grade III is the feeder post for promotion to the post of Personal Assistant, as per extract of relevant rules, Annexure VIII(p.36 of the paper-book). For the post of Stenographer Grade III, the following are the required qualifications:-

- " (a) Matriculation or equivalent;
- (b) Speed of 80 words per minute in English shorthand and 40 words per minute in English typing;
- (c) Desirable knowledge of Hindi shorthand with a speed of 80 words per minute and typewriting 80 words per minute."

8. In spite of having been provided with opportunities twice, to acquire the requisite qualification in English shorthand, the applicant failed to acquire the same, as per material on record. The plea to avoid stagnation in his career progression, once he having opted to serve as Stenographer Grade III, rather than to continue in the permanent post of Lower Division Clerk, also lacks merit, he having failed to acquire the requisite qualifications, to lay a claim for the post of Personal Assistant. He

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showed no inclination to make up the deficiency, in spite of having been provided opportunities for the same. Further, in the absence of eligibility, plea of any discrimination, as alleged, also does ^{not} stand. In the result, the applicant's claim lacks merit, and the OA is accordingly dismissed, with no order as to costs. The interim order passed on 6.8.86 is also vacated.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A) 20/7/92

T.S. Oberoi
(T.S. OBEROI)
MEMBER(J) 20.7.92