

X IN THE CENTRAL ADMINISTRATIVE TRIBUNAL 6

NEW DELHI

O.A. No. 989/86

198

T.A. No.

DATE OF DECISION 26-6-1987

Shri Chander Mohan Sharma & Ors.

~~Petitioner~~ Applicants

Shri B.S. Mainee

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondents

Shri S.P. Kalra

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. JUSTICE G. RAMANUJAM VICE CHAIRMAN

The Hon'ble Mr. BIRBAL NATH, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to all the Benches ?

26/6/87
(BIRBAL NATH)
MEMBER (A)
26-6-1987

26/6/87
(G. RAMANUJAM)
VICE CHAIRMAN
26-6-1987

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI.

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REGN. NO. O.A. 989/86

Date of Decision: 26-6-1987.

Shri Chander Mohan Sharma & Ors.

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Applicant

Vs.

Union of India & Ors.

...

Respondents.

CORAM:

Hon'ble Mr. Justice G.Ramanujam, Vice-Chairman.

Hon'ble Mr. Birbal Nath, Administrative Member

For the applicants: Shri B.S. Mainee, counsel.

For the respondents: Shri S.P. Kalra, counsel.

JUDGMENT
(delivered by Hon'ble Mr. Birbal Nath)

This is O.A. No. 989/86 filed before the Tribunal on 6.4.1986 under Section 19 of the Administrative Tribunals Act, 1985, wherein the applicant Shri Chander Mohan Sharma and five of his other colleagues, who are working as Clerks under the Northern Railway, Ghaziabad, have prayed that the Railway-respondents be directed to reckon their seniority from the date when they were promoted as Junior Clerks in the scale of Rs. 260-400 against the substantive posts and that the respondents should further promote them as Senior Clerks in accordance with their revised seniority.

2. The facts leading to the application are that a written test for the posts of Junior Clerk was held on 27.3.1983 in the grade of Rs. 260-400. The candidates were required to appear in the viva voce which was not held as the selection proceedings had remained under scrutiny on account of certain irregularities.

The applicants were, however, promoted to officiate as Junior Clerks vide ~~vide~~ Notice dated 2.6.1983. *being notified in the written test.* The said notice (Annexure IV) clearly stated that they were ~~issued~~ *promoted* against 33 1/3% reserved vacancies for promotees quota, on purely ad-hoc basis.

3. On behalf of the applicants, it was argued that since they have been regularised subsequently, their period of ad-hoc promotion should be counted towards their seniority in terms of the judgments delivered by the Tribunal in Shri K.N. Mishra and others Vs.

Union of India & others¹ and Shri S.C. Jain Vs. Union of India & Ors.²

On behalf of the respondents, it has been maintained and argued that the applicants were not promoted vide order of 2nd June, 1983 but were only asked to officiate against the posts of Junior Clerks on purely ad-hoc basis and this does not confer any right upon them to claim seniority for the period of ad-hoc officiation.

4. We have given careful thought to the contentions raised.

In the case of Shri K.N. Mishra and others Vs. Union of India & Ors.¹, it has been held as follows:

"In sum, the benefit of the long period of service would accrue to all promotees, who continuously officiated against long term vacancies and long term vacancies would be those that "are not for a few days or a few months or are otherwise adventitious". Irrespective of whether the posts were temporary or permanent, so long as the promotion was against long term or substantive vacancies and not against short term or fortuitous

1. A.T.R. 1986(2) C.A.T. 270

2. A.T.R. 1986(2) C.A.T. 346

vacancies, the period of continuous officiation would have to be reckoned for determining seniority...."

Similar view has been taken by this Tribunal in the case of

Shri S.C. Jain Vs. Union of India & Ors. that the entire period of

ad-hoc officiation followed by regular appointment should count for

the purpose of seniority. In view of these decisions, now it is

well settled that where a civil servant works against a regular vacancy

though on an adhoc basis and he is subsequently regularly appointed,

he is entitled to count the ad-hoc officiation period towards the

seniority. The argument that the selection process had not been

completed because the viva voce was not held does not help the

respondents because the applicants had not stayed away from the

viva voce on their own. It was the Department which was responsible

for delay in completing the selection process. In the given

facts and circumstances of the case, the application is allowed

with no order as to costs.

(BIRBAL NATH)
MEMBER (A)
26-6-1987.

G. Ramanujam
(G. RAMANUJAM)
VICE CHAIRMAN
26-6-1987