

9
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Reg.Nos.(1) OA 1068/86 with Date of decision: 24.07.1992
CCP 13/87

(2) OA 1166/86 with
CCP 12/87

(1) OA 1068 with
CCP 13/87

Shri Sohan Lal

...Applicant

(2) OA 1166/86 with
CCP 12/87

Shri Bhoja Ram

Versus

Union of India through the
Secretary, Ministry of Home
Affairs

...Respondents

For the Applicants

...Shri R.L. Sethi,
Counsel

For the Respondents

...Mrs. Raj Kumari
Chopra, Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOONIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed
to see the Judgment? Yes

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

JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K.
Kartha, Vice Chairman(J))

The applicants in these two applications have worked
as Lower Division Clerks on ad hoc basis in the office of
the respondents for about six years from 1980 to 1986
and thereafter they have continued as such by virtue of the
interim orders passed by the Tribunal for another six years.

They are still continuing in service by virtue of the
interim orders passed by the Tribunal.

2. As common questions of law have been raised in
these applications, it is proposed to deal with them in a

hitherto common judgment of the learned bench

set out below:- The facts of the case are not disputed. The

applicants have worked as Lower Division Clerks on

ent to nothing purely temporary and ad hoc basis. Their appointment

ent to nothing had been extended from time to time till their services

ent to nothing were finally terminated by the impugned order dated

ent to nothing 27.11.1986. The impugned order has been passed by

invoking the provisions of Rule 5 of the CCS(Temporary

and Miscellaneous Service) Rules, 1965. We have also

ent to nothing heard the learned counsel of both parties. The case

ent to nothing of the applicants is that having worked for such a long

ent to nothing period, the termination of their services by invoking

ent to nothing Rule 5 of the CCS(Temporary Service) Rules, 1965, is not

ent to nothing and illegally sustainable. The said rules would not apply to

ent to nothing them as the respondents were under an obligation to

ent to nothing to declare them quasi permanent, in which event the said

ent to nothing rules would not apply to them. They have also relied

upon a catena of judicial pronouncements, according to

ent to nothing in which, by virtue of long officiation in a post, a person

ent to nothing is entitled to regularisation in the post of LDC. The

ent to nothing relied upon is as follows:-

ent to nothing The case law relied upon by the learned counsel
for the applicants:-

ent to nothing (1) 1192(1) SLJ 215 (SC); and (2) 1992(19)ATC

292 (SC)

ent to nothing

ent to nothing



learned counsel for the applicants also submitted

that the applicants belong to the Scheduled Caste
community.

5. As against the above, the contention of the
respondents is that the appointment of the applicants
was purely by way of stop-gap arrangement and pending
the joining of a regular incumbent sponsored by the
Staff Selection Commission.

6. Admittedly, the applicants were appointed as
Lower Division Clerks from the names sponsored by the
Employment Exchange. The letters of appointment issued
to the applicants indicated that the appointments were
purely temporary and ad hoc and that they have no claim
for absorption in regular establishment. They were also
informed and forewarned that their appointment could be terminated
at any time without any show-cause notice. It was
also stipulated that other conditions of service would
be as per the Government rules and orders in force from
time to time. In view of the above, it is
well known that in Central Government
offices/departments, regular appointment of Lower Division
Clerks is made on the basis of the examinations held by
the Staff Selection Commission which is the recruiting
agency for the said post. The respondents have stated
in their counter-affidavit that the applicants appeared
in the special qualifying examination conducted by the

Staff Selection Commission but did not qualify the said examination. Accordingly, it has been argued that the said post of LDCs is to be filled by such candidates who have no legal right to continue in the post.

The learned counsel for the respondents also submitted that the period of service rendered by the applicants and the respondents is fully distinguishable and is subject to

during the subsistence of the stay order passed by the Tribunal should not ~~be~~ be taken into account for the purpose of regularisation of the applicants. The learned

counsel for the respondents also relied upon the judgment of this Tribunal dated 5.3.1992 in IA 226/86 (Suit No. 955/84 - Brij Bala Chopra Vs. U.O.I. & Another), in which

the Tribunal did not give any relief to an applicant who was similarly situated.

In our opinion, the applicants are not entitled to

automatic regularisation in the post of LDCs as the said post is filled on regular basis by successful candidates at the examination held by the Staff Selection Commission.

For the departmental candidates who have been continuing

on ad hoc basis, the Staff Selection Commission has in the past conducted special test. In fact, the applicants before us had appeared in a special qualifying examination conducted by the Staff Selection Commission but they could not qualify the said examination. In our opinion, having

