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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI. (7)

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. DHOUNDIYAL, 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.
Karttha, 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

common judgment.

3. The facts of the case are not disputed. The

applicants have worked as Lower Division Clerks on

purely temporary and ad hoc basis. Their appointment

had been extended from time to time till their services

were finally terminated by the impugned order dated

27.11.1986. The impugned order has been passed by

invoking the provisions of Rule 5 of the CCS (Temporary

Service) Rules, 1965.

4. We have gone through the records of the case and

have heard the learned counsel of both parties. The case

of the applicants is that having worked for such a long

period, the termination of their services by invoking

Rule 5 of the CCS (Temporary Service) Rules, 1965, is not

legally sustainable. The said rules would not apply to

them as the respondents were under an obligation to

declare them quasi permanent, in which event the said

rules would not apply to them. They have also relied

upon a catena of judicial pronouncements, according to

which, by virtue of long officiation in a post, a person

is entitled to regularisation in the post of LDC. The

The case law relied upon by the learned counsel for the applicants:-

(1) 1192(1) SLJ 215 (SC); and (2) 1992(19) ATC 292 (SC)



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 forewarned that their appointment could be terminated at any time without any show cause notice. It was further stipulated that other conditions of service would be as per the Government rules and orders in force from time to time.

7. 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

applicants 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

during the subsistence of the stay order passed by the

Tribunal should not ~~also~~ 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 TA 226/86 (Suit No.

955/84 - Brij Bala Chopra Vs. U.O. & Another), in which

the Tribunal did not give any relief to an applicant

who was similarly situated.

8. We have given careful consideration to the

aforsaid contentions. The respondents have not adversely

commented upon the work and conduct of the applicants.

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

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regard to the long period of ad hoc service put in by the applicants, the applicants should be given at least two more chances to appear in such special tests. We, therefore, dispose of the application with a direction to the respondents to arrange the holding of special tests for the applicants and persons similarly situated, if any, through the Staff Selection Commission, as a special case. They shall do so as expeditiously as possible, but preferably within a period of three months from the date of communication of this order. In case the applicants qualify the special test to be conducted by the Staff Selection Commission, they should be appointed as Lower Division Clerks on a regular basis. The application is disposed of on the above lines.

There will be no order as to costs.

Let a copy of this order be placed in both the case files.

CCP 13/87 and CCP 12/87

The learned counsel for the petitioner did not press these CCPs. Accordingly, the CCPs are dismissed and the notice of contempt is discharged.

(B.N. DHOONDIYAL)
MEMBER (A)

24.07.1992

(P.K. KARTHA)
VICECHAIRMAN (J)

24.07.1992

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