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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI

Regn. No. OA 1193/86 & OA-1194/86 Dated: 2.2.1987.

Shri Ishwar Singh Tanwar Petitioners
&

Shri Harvinder Girdhar

VERSUS

Union of India Respondents

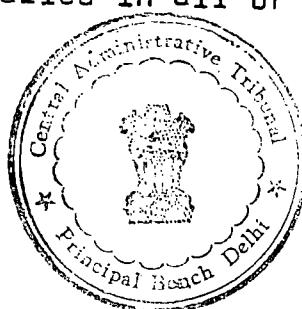
For petitioners Shri S. Vidyalankar,
Advocate.

For Respondents

CORAM: Hon'ble Shri S.P. Mukerji, Administrative Member.
Hon'ble Shri H.P. Bagchi, Judicial Member.

JUDGEMENT

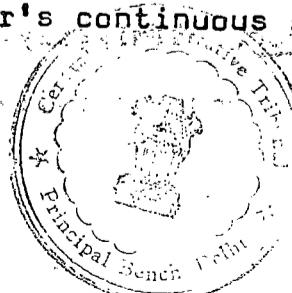
By this common order, we are disposing of the two identical applications No. OA-1193/86 filed by Shri Ishwar Singh Tanwar and O.A.-1194/86 filed by Shri Harvinder Girdhar. ^{taking the former to be the leading case} They have been working as LDCs in the Ministry of Industry since 29th April, 1978 and 11th April, 1977, respectively on a purely temporary and ad hoc basis. They have been served with one month's termination notice by the impugned order, dated 17th December, 1986. They have prayed that since they have been in service for the last 9-10 years, they cannot be discharged without any fault of theirs and without any hearing and the termination is hit by Article 311(2) of the Constitution of India. They have, therefore, prayed that the termination notice should be withdrawn and they should be allowed to take the Supplementary Special Qualifying Examination. The respondents have stated that the petitioners had been allowed to take the three Special Qualifying Examinations of 1982, 1983 and 1985 but failed in all of them. In accordance with the



Under the instructions of the Department of Personnel and
Ministry of Training, the services of those who did not qualify
in the examinations were terminated. It had already
been clearly mentioned in the scheme of the Special
Qualifying Examination, 1985 that the services of
those who did not or could not qualify the examination,
and for whom will be terminated from the date of declaration of the
results of the examination.

Question 2. We have heard the arguments of the learned
counsel for both the parties and gone through the
documents carefully. They could not be regularised
because these posts were not borne on the Central
Secretariat Clerical Service and could be filled up
on a regular basis only through recruitment by the
Staff Selection Commission. However, in the exigency
of service, these posts were taken out of the service
temporarily to accommodate ad hoc employment till
regular appointments could be made through the
competitive examinations. However, in order to enable
not only the ad hoc employees who could not get through the
regular competitive examinations, Special Qualifying
Examinations were held in 1982, 1983 and 1985. The
candidates in both these cases appeared in the
regular ad hoc Special Qualifying Examinations and failed. In any
series of applications which were brought before
this court, it was revealed that a number of ad hoc
employees could not take the 1985 Special Qualifying
Examination because of exclusion of their service
records on which they had put in on daily-wage basis before
they were made ad hoc. Similarly, their age at the
time of their recruitment as daily-wage employee was

and were not taken into account for the purpose of their age and service for admission in the examination. In order to enable such candidates to take the examination of which they were deprived in 1985 by a narrow interpretation of the age and qualifying service and age, this court directed that a ^{Special Qualifying} ~~Supplementary~~ examination should be held by the Government to enable such excluded candidates of 1985 examination. It was clearly laid down by us that this examination was meant only for those who could not or were not allowed to appear in the 1985 examination because of age and qualifying service and restrictions and that it was not meant to operate as a fresh examination in which other candidates could also be allowed. As a result of our judgement, the Government of India is holding a ^{September} ~~Special Qualifying~~ examination. In para. 3 of the Department of Personnel & Training's letter of 30th May, 1986 (Annexure 'B' to the petition), it has been clearly laid down that "rules were issued for holding of ^{September} ~~Supplementary~~ Special Qualifying Examination for the regularisation of the services of such ad hoc LDCs, Telephone Operators, Hindi Typists and Stenographers Grade 'D' as did not or could not take the Special Qualifying Examination, 1985 because of age and service qualifications but would have been eligible by the revised interpretation, i.e., those who were within the age limit at the time of their initial appointment as daily rated clerks through the Employment Exchanges followed by appointment as ad hoc LDCs and had completed one year's continuous service as on 1.1.1985 including



(a) service as daily rated clerks (ignoring the periods of technical breaks) and (b) service as Assistant, P.D. and other ad-hoc posts like ad-hoc LDC, etc." The scope of the examination was further expanded by the Government in the said O.M. by para.4 of the same O.M. as indicated below:-

"4. It has been observed that some of the ad-hoc employees have been left out of the scope of the said Examination, the Government have, therefore, decided that the ad-hoc employees of the categories mentioned above who have completed one year's ad-hoc service during the period from 1.1.1985 to 30.9.1986 including those ad-hoc appointees whose services were terminated during the period from 1st January, 1985 to 31st September, 1986 for reasons not connected with misconduct or general unsuitability and who had rendered at least one year's ad-hoc service before such termination, may also be allowed to appear at the aforesaid examination. A revised scheme to conduct such an examination is being issued separately."

3. From the aforesaid two paras it is clear that the scope of the examination for the Special Qualifying Examination even by its

expanded scope, cannot comprehend the cases of applicants who have already availed of the 1985

Examinations but without success. If we allow the

petitioners to take the examination, it will change the complexion of the examination as visualised by

us. It is a matter of policy of the Government

whether a fourth Special Qualifying Examination as distinct from supplementary examination to the

1985 examination should or should not be held. This

Tribunal cannot go into the merits of such a policy.

However, so far as the Supplementary Special

Qualifying Examination being held shortly is concerned,

the petitioners have no right ^{whatever} to be admitted in the examination and their request in the application to this effect has to be rejected.

4. As regards the impugned termination notice, it has been held in N. Saxena Vs. Union of India,

AIR 1986(2), CAT 228 that an ad hoc appointee has no right to the post and can be reverted in accordance with the terms of appointment. It has

further been held in Jarnail Singh & Ors. Vs. the State of Punjab & Others, 1986 (2) SLR 278, that if

junior ad hoc employees are retained and services of

seniors are terminated by an order of termination

coupled with a stigma, then Articles 14 and 16 of the Constitution

coupled with Article 21, will be violated.

Since we are satisfied that the impugned notices were not issued as a measure of punishment and no stigma is attached or implied in these notices,

Article 311(2) of the Constitution is not attracted.

As the petitioners have not contended that those who

were recruited as ad hoc LDCs later than them have

been retained while their services have been dispensed

with, we see no force in the applications and reject

the same. There will be no order as to costs. A

copy of this order may be placed on both the files.

of Case No. A. 1194/86.

Sd/-

Sd/- Govt. of India, Legal Service Commission (S.P. MUKERJI)
(H.P. BAGCHI) ADMINISTRATIVE MEMBER
JUDICIAL MEMBER

SECTION OFFICER
CAT. DELHI

