

THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:NEW DELHI.

RA No.384/92 in
OA No.1008/86

Date of decision: *February 12, 1993*

Shri Jagjit Singh .. Applicant
versus

Union of India & anr... Respondents

CORAM: THE HON'BLE SHRI P.C.JAIN, MEMBER(A)
THE HON'BLE SHRI J.P.SHARMA, MEMBER(J)

For the Review Applicant...Sh.G.D.Gupta, counsel.

ORDER

HON'BLE SH.P.C.JAIN, MEMBER(A):-

The applicant in OA No.1008/86 which was decided by an order dated 12.10.92 has filed this Review Application for seeking review of the aforesaid judgement to the extent mentioned therein and allowing relief *l.c.* the applicant for regularisation in the post of Stenographer Grade-III with retrospective effect as asked for in the Original Application on the basis of regularisation in the vacancy reserved for SC by granting necessary relaxation for SC candidates as per circular of the DOP dated 23.12.70. We have perused the RA and heard the learned counsel for the Review Applicant.

2. In OA 1008/86, the challenge of the applicant as mentioned in para 3 of the OA was as below:-

" 3. Particulars of the order
against which application is made.

Application under Section 19 of the Administrative Tribunals Act, 1985, challenging inter alia, the act of the respondents in rejecting the case of the applicant for regularisation in the post of Stenographer(Ordinary Grade/Grade-III which he has been holding since August,1983 and the consequent threatened act of reversion of the applicant from the aforesaid post of Stenographer(Ordinary Grade)/Grade-III

to that of L.D.C"

The reliefs prayed for in the OA were as below:-

- "(a) to allow this application of the applicant with costs.
- (b) to issue appropriate order or orders, direction or directions:
 - (i) quashing the orders rejecting the request of the applicant for regularising his appointment to the post of Stenographer, Grade-III.
 - (ii) directing the respondents to treat the applicant as regularly appointed from the day he started working on the post of Stenographer Grade-III.
 - (iii) quashing the orders of reversion from the post of Stenographer, Grade-III.
 - (iv) directing the respondents to treat the applicant regular appointee to the post of Stenographer Grade-III and, thus, in consequence entitled to seniority and other consequential benefits from the day he started working on the post of Stenographer, Grade-III.
- (c) to pass such other order or orders, direction or directions as this Hon'ble Tribunal deems fit and proper to meet the ends of justice.

Interim order, if prayed for:

It is understood that the Department is proceeding to revert the applicant from the post of Stenographer Grade-III to the post of L.D.C. and since the case of the applicant has been rejected by the Department for regularisation to the said post of Stenographer, Grade-III and it is understood that in fact, the action is being taken, it is prayed that this Hon'ble Tribunal may be pleased to restrain the respondents to revert the applicant till the final disposal of the application of the applicant under Section 19 of the Administrative Tribunals Act, 1985 and an ad-interim ex-parte order to the same effect may kindly be issued in the meantime."

3. From a perusal of the above it is clear that the applicant in the OA did not assail any action of the respondents in not treating a particular vacancy as a reserved vacancy and further he did not seek any relief for declaration that a particular vacancy in the cadre of Stenographer Grade-III be declared as a reserved vacancy. The operative part of the decision in the above OA is extricated as below:-

" If a regular vacancy on a long term basis was available for being filled up on regular basis before the 1983 Rules came into effect and it has not already been filled up the same should now be filled up in accordance with the provisions of the 1977 Rules by holding a competitive test limited to LDCs of the Directorate of Organisation and Management Services possessing the qualifications specified in column 8 of the 1977 Rules within a period of three months from the date of receipt of a copy of this order. The applicant as also other LDCs who were eligible under the 1977 Rules and were working as LDCs prior to coming into effect of the 1983 Rules, will be eligible to sit in the aforesaid competitive test. Appointment of the applicant to the post of Stenographer Grade-III as above shall be regulated by the results of the above test. Till the results of the test are announced, the applicant shall be allowed to continue on the post as at present. If he does not succeed, he can be reverted."

4. What the applicant, therefore, now seeks is really outside the scope of the OA irrespective of the fact that he had referred in the OA to some of the representations in this respect. The issue for adjudication in the OA was whether the appointment of the applicant on ad hoc basis on purely temporary basis should be treated as regular appointment to the post of Stenographer Grade-III and not against a reserved or non-reserved post. Therefore, the court was not required to ^{call} adjudicate on ~~any~~ issue that a particular vacancy was a reserved one or not. Further, this was

also not the case of the applicant in the OA that while declaring that the applicant has failed in the competitive test he had taken, the instructions of the Department of Personnel dated 23.12.70 had been ignored and as such the result of failure was illegal. It also needs to be stated that as per the directions in the judgement, the competitive test ~~has~~ again been held in accordance with the provision of 1977 recruitment rules in the event of vacancies on regular basis being available as per the judgement, and the question of applying relax^{ed} standards in the case of the applicant as SC candidate can be considered only at the time of that selection. The Bench no where said in the judgement, as it was not required to say, that the vacancy for which the selection should be held as per directions in the judgement, was a reserved vacancies or not. If the vacancy in fact is a reserved vacancy, the selection will be held for such a vacancy in accordance with the relevant rules. In other words, the judgement in the OA does not debar the respondents in holding the selection after treating the vacancy as reserved if in accordance with the relevant instructions, roster etc. this is otherwise a reserved vacancy.

5. In the light of the foregoing discussion, we see no merit in this RA and the same is accordingly rejected.


(J.P.SHARMA)
MEMBER(J)

Dec 22/1973
(P.C.JAIN)
MEMBER(A)