

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 133 198 6  
~~P.A. No.~~

DATE OF DECISION 28.5.1986

Shri Karamvir Verma Petitioner

Shri D.C.Vohra Advocate for the Petitioner(s)

Versus

Union of India Respondent

Shri M.L.Verma Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P.MUKERJI, ADMINISTRATIVE MEMBER

The Hon'ble Mr. H.P.BAGCHI, JUDICIAL 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 ?

JUDGEMENT

The petitioner has come up under Section 19 of the Administrative Tribunals Act 1985 praying that the impugned order dated 30.5.85 reverting him from a Grade 'C' to a Grade 'D' post should be set aside and he should be given the benefit of seniority, salary and allowances etc.

as a Grade 'C' employee from the date of his first appointment.

2. The brief facts of the case which are not in dispute are as follows. Having entered as a casual labour in December 1977 the petitioner was appointed as Grade II Clerk on an ad hoc basis on 19.12.79. His services were terminated on 28.10.80 but he was appointed as a casual labour again on 1.11.80 and was regularised as a Peon on 2.4.81. On 1.6.82 he was again appointed as an LDC on an ad hoc basis and passed the typing test and interview in August 1982. On 31.3.83 he was reverted to Grade 'D' again but reappointed as LDC on 3.10.83 with the condition that he will qualify in the typing test to be held by the Staff Selection Commission. His name was forwarded for appearing in the Special Qualifying Examination on 30.9.83 and his name appeared amongst successful candidates. He<sup>/was</sup> however not regularised but reverted to Group 'D' on 30.5.85. He was promoted as clerk on 3.6.85 and continued to work in that grade with intermittent breaks and was finally reverted as Peon on 20.11.85. According to the respondents, the petitioner could not be given the benefit of regular appointment as LDC in spite of his success in the Special Qualifying Examination as he did not fulfil the condition for taking the Special Qualifying Examination being<sup>/a</sup> promoted candidate from Grade 'D' post and not an appointee from the Employment Exchange.

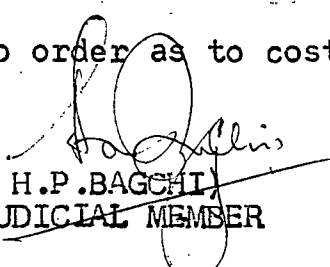
3. We have heard the arguments of the learned counsel for both the parties and gone through the documents very carefully. It is admitted that the petitioner has been working continuously as an LDC

from 1.6.1982 and he passed the typing test and interview in August that year but was reverted to Group D post on 31.3.1983. He was reappointed as LDC after qualifying in the typing test of SSC on 3.10.1983 on condition of his taking the SSC examination. His name was forwarded on 30.9.1983 for appearing in the Special Qualifying Examination for regularisation and he was successful in the examination. Thereafter, he was reverted as Peon on 30.5.1985 and intermittently promoted and reverted. The main plea of the respondents is that even though his application was forwarded for appearing in the Special Qualifying Examination he was not eligible to take the examination as he was working as an ad hoc LDC not through the Employment Exchange but on promotion from Group D level. We have examined the scheme of Special Qualifying Examination and one the conditions for admission is that " the applicants should be ad hoc employees who were recruited through the Employment Exchange and were within the age limits for competing at Clerks Grade Examination of the Commission on the date of their appointment....." It is admitted that the petitioner was not recruited as L.D.C. through Employment Exchange but promoted from Group 'D' level. There are, however, two special features in his appointment which cannot be ignored.

4. Firstly, in the O.M. issued by the DP&AR No.14/8/78-CS(II), dated the 13th February, 1979 appended as Annexure H to the petition, it is stated that "it has been decided in partial modifications of the instructions contained in para 3 of this Department's O.M. cited that wherever vacancies in the grade of L.D.C. of the CSCS which are not long-term ~~xxx~~ filled on ad hoc basis after

getting them temporarily excluded from the service with the concurrence of this Department, educationally qualified Group D employees may be preferred to the nominees of the employment exchange and promoted on ad hoc basis on the basis of seniority subject to the rejection of the unfit without insisting on their passing the typewriting test....." It is thus clear that Group D promotees were given a superior right to ad hoc appointments as LDC as compared to the nominees of the Employment Exchange. It, therefore, would be most unfair if at the stage of regularisation, the petitioner is deprived of regularisation merely on the plea that he was not an Employment Exchange nominee.

5. Secondly, in the order of the petitioner's appointment No.Q/PD/578/5/82, dated the 3rd October, 1983, as L.D.C., it was clearly mentioned that "their appointment is further subject to the stipulation that the appointees avail the earliest opportunity to take the SSC examination for regularisation of their ad hoc appointment." It is thus clear that the respondents are committed to the regularisation of the petitioner who has qualified in the Special Qualifying Examination held by the S.S.C. after his name was duly forwarded by his employers. In the circumstances of the case and for the reasons aforesaid, we allow the petition and direct that the petitioner may be regularised on the basis of the Special Qualifying Examination if he is not otherwise debarred from such appointment. There will be no order as to costs.

  
( H.P.BAGCHI )  
JUDICIAL MEMBER


 28.5.86  
( S.P.MUKERJI )  
ADMINISTRATIVE MEMBER

23.5.86


REGN. NO. OA 133/86

Present :- D.C. Vohra, counsel for  
petitioner.

Order pronounced.



(H. P. BAGCHI)  
JUDICIAL MEMBER



(S. P. MUKERJI)  
ADMINISTRATIVE MEMBER