

CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI.

OA No. 1823/87

Date of decisions 2.8.1991

Shri Hamendra Misra

vs. Union of India & ors.

OA No. 444/88

Shri Vidya Sagar Chopra

vs. Union of India & ors.

For the Applicants

..... Shri Ashish Kalia, Counsel.

For the Respondents

..... Shri P.P. Khurana, Counsel.

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THE HON'BLE MR. JUSTICE U.C.SRIVASTAVA, VICE CHAIRMAN(J)  
THE HON'BLE MR. I.P.GUPTA, MEMBER(A)

JUDGEMENT

( JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE MR.  
JUSTICE U.C.SRIVASTAVA, VICE CHAIRMAN)

As common questions of law and fact arise in these two applications that is why they are being disposed of together.

2. These two applicants were appointed as Lower Division Clerk for a period of two years on different dates in the year 1982 on contractual basis and continued to work as such till the impugned order dated 20.3.1986 terminating their services was passed. It has been stated by the applicants that but for artificial breaks wrongly done in between, their services were continuous and without giving any rhyme or reason they were reverted from the post of Lower Division Clerk to the post of Class-IV employees as Work Charge without any opportunity of being heard. They represented against the same but without any result and thereafter giving notice they have approached the Tribunal. They plead that the temporary break in service is illegal and juniors, i.e., those who joined subsequently have been retained and they have been regularised ignoring the claim of the applicants.

6

3. The respondents have pleaded that as a matter of fact, after contractual period they were appointed for 89 days and thus there was a break of one day and subsequently they have been reverted as Class-IV and according to the terms and conditions of service by efflux of time their service rendered on contract has come to an end. There is no denial to this fact. It may be that there was an agreement but later on they were appointed on casual basis for 89 days and the break which was given was artificial in view of what has been mentioned and it is expected that the posts are existing and those who were appointed subsequently to them are still continuing to hold the said posts. The reversion of the applicant is bad.

4. In the facts and circumstances, the impugned order dated 20.3.86 is arbitrary and cannot be sustained. Accordingly, the respondents are directed to appoint the applicants to the clerical posts in case vacancies exist, and in case those who were appointed as Lower Division Clerks subsequent to them are continuing, the applicants shall also be appointed as such without any delay. The same may be done within two months.

These applications are disposed of on the above lines.

There will be no order as to costs.

*I.P. Gupta*  
(I.P.GUPTA)  
MEMBER(A)  
2.8.1991.

SNS

*U.C. Srivastava*  
(U.C. SRIVASTAVA)  
VICE CHAIRMAN (J)  
2.8.1991.