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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. RA -96/90 In
OA-372/87

Date of decision: 23.10.1992

Ms. Jasbir Kaur

.... Applicant

Versus

Union of India & Ors.

.... Respondents

For the Applicant

.... Shri B.S. Mainee, Advocate

For the Respondents

.... Shri R.L. Dhawan, Advocate

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? *No*

JUDGMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

The Review Petitioner is the original applicant in OA-372/87 which was disposed of along with OA-316/87 by a common judgement dated 20.7.1990. In OA-372/87, she had prayed for quashing the impugned order dated 17.11.1986 issued by the Railway Board, for directing the respondents to regularise her services and for restraining them from terminating her services as Typist (English) in the Northern

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Railway. She had been engaged as Temporary Typist w.e.f. 18.12.1980 and had continued as such till the filing of OA-372/87 on 23.3.1987. On 27.3.1987, the Tribunal passed an interim order restraining the respondents from terminating her services. The present R.A. was filed on 8.8.1990 and on 10.8.1990, the Tribunal directed the respondents not to terminate her services. Thus, she had continued as temporary Typist in the office of the respondents from December, 1980 to-date though the period of service from March, 1987 to-date is pursuant to the stay order passed by the Tribunal.

2. In the judgement dated 20.7.1990, the Tribunal relied upon an earlier judgement dated 16.7.1990 in OA-342/87 (Miss Shashi Saxena and Others Vs. O.P. Gupta) wherein it was held that the applicants cannot call in question the decision of the respondents to computerise the reservation office where they had been engaged as casual Typists. As they had been rendered surplus in the reservation office due to computerisation, the applicants cannot claim to be absorbed in that office. The Tribunal was not impressed by the contention of the applicants that they were entitled to the benefits of the circulars and instructions issued in the case of mobile booking clerks or their contention that they should be conferred temporary status and regularised

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as Typists. The applications were partly allowed with the following directions:-

"In the facts and circumstances of the case, we, however, direct that in case the respondents need the services of casual Typists in other offices in Delhi or elsewhere, they shall consider engaging the applicants in preference to outsiders."

3. In the grounds to the Review Petition, it has been stated that there are some errors apparent on the face of the records, warranting a review of the judgement. It has been stated that the petitioner had been continuously working from the date of her appointment on 18.12.1980, that casual Typists are also casual labourers and are entitled to acquire temporary status after having put in 120 days of continuous service, that such employees who have put in long periods of service on ad hoc basis, deserve to be regularised and that casual Typists were sought to be disengaged in view of the Railway Board's Circular letter dated 17.11.1986 withdrawing the scheme of Mobile Booking Clerks. Some of the colleagues of the applicant had switched over as Mobile Booking Clerks and had since been regularised.

4. On careful consideration, it was felt necessary that in the interest of justice, the matter should be re-heard and the interim order restraining the respondents

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from disengaging the applicant was passed. We have gone through the records of the case carefully and have heard the learned counsel for both the parties.

5. The respondents had sought to dispense with the services of the petitioner on 5.3.1987. She has, however, been continued in service pursuant to the interim orders passed by the Tribunal. She has worked as English Typist on temporary basis for more than 12 years by now. She has become over-aged for any other Government service.

6. The petitioner was initially appointed as Typist after completing the Typing Test conducted by the Northern Railway Administration. There has been no complaint about her work and conduct throughout the period of her service. The respondents have not furnished any documentary evidence in support of their contention that due to the computerisation of Reservation Office, the petitioner was rendered surplus. As against this, the Petitioner had produced as Annexure X to the rejoinder-affidavit a letter written by the General Manager, Northern Railway addressed to the Secretary, Railway Board, according to which, Shri Rajan Lamba who had been working as a casual typist & had been disengaged in view of the Railway Board's letter dated 17.11.1986 relating to the discontinuance of the practice of engaging mobile booking clerks for clearing summer rush. The petitioner had also annexed to her

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rejoinder affidavit copy of the advertisement issued by the Railway Recruitment Board dated 20.2.1987, which indicates that there were 50 vacancies in the post of English Typist.

7. The Petitioner has annexed to the rejoinder affidavit to the Review Petition a copy of the order dated 4.9.1991 issued by the Northern Railway regarding the re-engagement of Smt. Sashi Saxena and Smt. Darshana Kumari, English Typists, who were the applicants in OA-342/87, pursuant to the judgement of the Tribunal dated 16.7.1990. The petitioner has submitted that she is senior to Smt. Saxena.

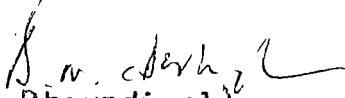
8. In State of Haryana Vs. Piara Singh, 1992 (2) SCALE 384, the Supreme Court has observed that "where a temporary or ad hoc appointment is continued for long, the Court presumes that there is need and warrant for a regular post and accordingly, directs regularisation." Summing up the legal position, it was further stated that "If for any reason, an ad hoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularisation provided he is eligible and qualified according to rules and his service record is satisfactory and his appointment does not run counter to the reservation policy."

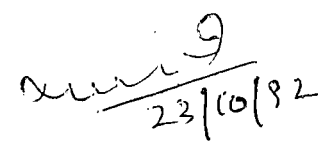
9. In view of the above and having regard to the fact that Smt. Sashi Saxena, the junior of the Petitioner, has

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been re-engaged by the respondents, we recall the judgement dated 20.7.1990 in OA-372 of 1987. We allow the application and direct the respondents to regularise the services of the applicant as English Typist and give to her all the benefits of a regular employee. In the facts and circumstances, we hold that the conferment of the benefits of a regular employee will be only prospectively and not retrospectively from the date of her initial appointment in 1980. The regularisation shall be on the basis of her service records, in the absence of which it will be presumed that her work and conduct had been up-to-the-mark. The respondents shall comply with the above directions expeditiously and preferably within a period of three months from the date of communication of this order. The interim order directing the respondents not to terminate her services is hereby made absolute. There will be no order as to costs.


(B.N. Dhoundiyal)
Administrative Member


(P.K. Kartha)
Vice-Chairman (Judl.)