

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 65/87
T.A. No.

199

DATE OF DECISION 14.12.1990.

Shri Bhagwan & Others	Petitioner Applicants
Smt. C.M. Chopra	Advocate for the Petitioner(s)
Versus	
U.P.S.C. & Others	Respondent
Shri M.L. Verma	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal? *Yes*

(Judgement of the Bench delivered by
Hon'ble Mr. P.K. Kartha, V.C.)

The applicants have been working as daily-wage Clerks in the Office of the Union Public Service Commission since 1983. They have not been regularised and they are being paid wages at daily rates. The reliefs sought by them are as follows:-

- (a) Give directions to the Respondent No.1 to make payment to the Petitioners for the work done with effect from the date of respective appointment keeping in view the pay-scale of Rs.260-400 as revised from time to time.

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- (b) The arrears of pay in the revised pay-scale be also directed to be paid to the Petitioners;
- (c) Direct the Respondents to regularise the appointment of the Petitioners in the post of Lower Division Clerk; and
- (d) In the alternative, the Petitioners pray that the Respondents be directed to give opportunity to the Petitioners to appear in the Special Examination conducted by the Staff Selection Commission for recruitment to the post of Lower Division Clerks from time to time.

2. The facts of the case in brief are as follows.

The applicants, who have passed High School/Higher Secondary School Examination, got themselves registered with the Employment Exchange for being absorbed in suitable employment. The U.P.S.C. required the services of Lower Division Clerks for which they sent a requisition to the Employment Exchange, who in turn, recommended the names of the applicants for consideration by the U.P.S.C. After scrutinising the certificates furnished by the applicants, the respondents interviewed them and selected them out of 100 candidates who had been sponsored by the Employment

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Exchange. In the offer of appointment issued to them, it was, however, stipulated that the appointment was purely casual and ad hoc in nature and will not entitle them to any consideration for regular or long-term appointment. The applicants were given the work of Lower Division Clerks which includes typing, keeping diary and despatch, etc., scrutinising the applications and giving necessary notings on files. Having served the respondents for several years, they have lost opportunities of employment in Government jobs. They have also become age-barred by now. They have alleged that they have been deprived of the opportunity of taking up special examinations which are conducted by the Staff Selection Commission for selection of candidates to the posts of L.D.C.

3. The respondents have stated in their counter-affidavit that the applicants have not been recruited against any permanent post, that they have been engaged as Casual Labourers on daily wages, that their wages are drawn from 'Contingent' Head and not from 'Salary' Head, and that the Lower Division Clerks in the Office of the U.P.S.C. are governed by the Central Secretariat Clerical Service Rules, 1962 which envisage appointment of such Clerks on the nomination made by the Department of

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Personnel & Training on the basis of Clerks' Grade Examination conducted by the Staff Selection Commission. They have not, however, denied the fact of the applicants having worked from 1983 to-date. They have further stated that a Supplementary Special Qualifying Examination was scheduled to be held in December, 1986 which had been cancelled by the Department of Personnel. In its place, a Special Qualifying Examination was to be held in March, 1987. Under the scheme of the examination, the applicants are not eligible to sit for the examination.

4. We have carefully gone through the records of the case and have considered the rival contentions. The applicants have worked for over 7 years as LDCs in the Office of the respondents, but their services have not been regularised. They have also not been given the benefits of regularly appointed Clerks.

5. In Jacob M. Puthuparambil & Others Vs. Kerala Water Authority & Others, JT 1990 (4) S.C.27, the Supreme Court had considered a similar issue relating to the regularisation of persons who had been appointed on ad hoc basis for several years. The Supreme Court has directed the respondents to regularise the services of such employees who have put in continuous service of not less than one year, as a separate block in consultation

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with the Kerala Public Service Commission. In doing so, The Kerala Public Service Commission has been directed to take the age factor as waived. In arriving at this conclusion, the Supreme Court relied upon its earlier decision in Smt. P.K. Narayani & Others Vs. State of Kerala & Others, 1984 Suppl. S.C.C. 212 and in Dr. A.K. Jain & Ors. Vs. Union of India & Others, 1987 Suppl. S.C.C.497. In Narayani's case, the Supreme Court directed that the petitioners and all others similarly placed should be allowed to appear at the next examination that the Public Service Commission may hold without raising the age bar; till then they may be continued in service provided there are vacancies. The Court, however, clarified that this will not confer any right on the employees to continue in service or of being selected by the Commission otherwise than in accordance with the extant rules and regulations. The Court gave the above directions describing the case as "a human problem which has more than one facet". In Dr. A.K. Jain's case, the services of ad hoc Assistant Medical Officers who were initially appointed for six months but were continued for periods ranging upto 4 years, were sought to be terminated to accommodate the candidates selected by the U.P.S.C. The petitioners claimed that their services

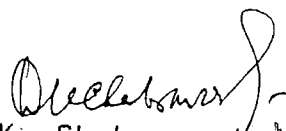
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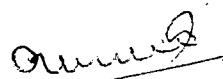
should be regularised. The Supreme Court directed the regularisation of the services of all members appointed upto October 1, 1984 in consultation with the U.P.S.C. on the evaluation of their work and conduct based on the confidential reports in respect of the period subsequent to October 1, 1982.

6. The Supreme Court also relied upon its earlier decision in Daily-rated casual labour employed under P & T Department Vs. Union of India & Others, 1988 (1) S.C.C. 122.

7. Keeping the above trend of the judicial decisions of the apex Court, we are of the opinion that the respondents should take steps to regularise the services of the applicants in consultation with the Staff Selection Commission. While doing so, they should relax the upper age limit for appointment as LDCs in case the applicants were within the prescribed age-limit at the time of their initial appointment. Till the applicants are so regularised, the services of the applicants shall not be dispensed with. The applicants should also be given the minimum of the pay-scale of L.D.C.s till they are regularised, with effect from the date of this order.

8. The respondents shall comply with the above directions within a period of three months from the date of receipt of this order. There will be no order as to costs.


(D.K. Chakravorty)
Administrative Member
14/12/1990


(P.K. Kartha)
Vice-Chairman (Judl.)
14/12/90