

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

REGN.NO. O.A. 1189/87.

DATE OF DECISION: 1.1.1993.

Prem Prakash Kalra.

.. Petitioner.

Versus

Union of India & Anr.

.. Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.  
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioner.

..None.

For the Respondents.

..Shri N.S. Mehta,  
Sr. Standing Counsel.

JUDGEMENT(ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The petitioner was not present when the case was taken up whereas Shri N.S. Mehta, Sr. Standing Counsel, was present. As this is a very old matter, we consider it proper to peruse the records, hear the learned counsel for the respondents and dispose of the case on merits.

2. The petitioner has challenged the vires of proviso to Rule 3 of the Combined S.Os/Stenographers (Grade 'B'/Grade-I) Limited Departmental Competitive Examination, 1987, on the ground that it violates the equality clause contained in Articles 14 and 16 of the Constitution. The recruitment to the Section Officers' Grade is regulated by the Central Secretariat Service Rules, 1962 made under the proviso to Article 309 of the Constitution. Rule 13 of the said Rules provides for recruitment to the Section Officers' and the Assistants Grade. Sub-rule (8) of Rule 13 provides that the procedure for preparing and revising the select list for this purpose shall be as set out in the IVth Schedule to the Rules. Rule 2 of the IVth Schedule deals with the maintenance of the select list for the Section Officers' Grade. Clause(c) of Rule 2 provides that the persons selected

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on the results of the departmental competitive examinations held by the Commission from time to time in the order of their merit are entitled to be included in the select list. Sub-rule (2) of the Rule 2 of the IVth Schedule provides that the rules for the limited departmental competitive examinations referred to in clause(1) shall be determined by regulations made by the Department of Personnel and Administrative Reforms, Ministry of Home Affairs and the allotment of candidates from the results of these examinations to the various cadres shall also be made by that Department. It is on the strength of these provisions that the Department of Personnel and Administrative Reforms, Ministry of Home Affairs has been making the rules and regulations in regard to the holding of the departmental test for inclusion in the said list.

3. We are concerned in this case with the rules made under the Notification dated 11.7.1987. These rules apply only to the combined limited departmental examination held in the year 1987. Rule 3 of the said Rules prescribes the eligibility for taking the Limited Departmental Examination. It says that the persons in the Assistants' Grade of the Central Secretariat Service and Grade-C of the Central Secretariat Stenographers' Service shall be entitled to take the examination subject to the condition that they have to their credit not less than 5 years' approved and continuous service in the Assistant's Grade of the Central Secretariat Service or in Grade-II/Grade C of the Central Secretariat Stenographers' Service or in both, as the case may be. The proviso to Rule 3 may be extracted as follows:

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"Provided that in the case of a candidate who had been appointed to the Grades mentioned in Column 1 above on the results of a Competitive Examination including a Limited Departmental Competitive Examinations such an examination should have been held not less than 5 years before the crucial date and he should have rendered not less than 4 years approved and continuous service in that grade".

It is this provision that is challenged in this petition on the ground that the discrimination is made by preferring eligible candidates who have been appointed to the grades mentioned in column (1) on the result of a Competitive Examination, including a Departmental Competitive Examination. So far as the persons falling in this category are concerned, they would be eligible if such an examination was held not less than 5 years before the crucial date and that they had rendered/ <sup>not less than</sup> 4 years approved and continuous service in that grade whereas others in the eligible categories would require 5 years approved and continuous service. The persons belonging to the category specified in the provision would be eligible if they had completed not less than 4 years of approved and continuous service in that grade. It is, therefore, that the petitioner maintains in this petition that the proviso to Rule 3 is discriminatory and violative of Articles 14 and 16 of the Constitution of India.

4. The respondents have tried to justify the distinction made on the ground that the classification is rational and has been made with a view to obviate injustice to the class of persons covered by the provision. For the sake of convenience, we would like to extract the justification pleaded by the respondents in this behalf in the reply affidavit as follows:

"Prior to March, 1976, the position was that for competing in the Section Officers/Grade 'B' Stenographers Limited Departmental Competitive Examination both assistant as well as Stenographers had to put in 5 years continuous and approved service. However, the above provision created certain anomalies between Assistants and Stenographers Grade 'C' as regards eligibility for appearing in the aforesaid examination. While the results of the Grade 'C' Stenographers' Examination were declared the same year in which the examinations were

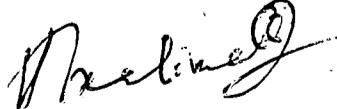
held but the results of the Assistants Grade Examinations were declared in the next year and thus they became eligible earlier than the Assistants whose results were declared next year of the examination. Further, in the case of direct recruit Assistants there is a lapse of more than one year between holding of the examination and the actual date of appointment after completion of the pre-appointment formalities such as verification of character and antecedents, medical examination etc. If the date of appointment as Assistant or Stenographer Grade 'C', as the case may be, is taken into account for persons appointed on the basis of the open Competitive Examination/ Departmental Examination, it is quite likely that officers who have secured higher rank in the merit list might have joined later due to delay in the administrative procedure for completing the preappointment formalities whereas the juniors might have been appointed earlier due to completion of their preappointment formalities in their cases. If service is taken into account for competing in Section Officers' Examination from the date of appointment, it results in anomalies inasmuch as the seniors who had joined later would not be eligible to compete in the examination. In order to remove this kind of anomaly, it was decided that in respect of those who are appointed through examination, including a Limited Departmental Competitive Examination, the examination should have been held not less than 5 years before the crucial date for competing in the examination provided that they have rendered 4 years continuous service as Assistant/Stenographer Grade 'C', as the case may be. From the background given above, it is submitted that there is no hostile discrimination between Assistants/Stenographers Grade 'C' appointed through the examination, including a Limited Departmental Competitive Examination, and promotee

Assistants as regards eligibility service for appearing in Section Officers/ Stenographers Grade 'B' Limited Departmental Competitive Examination.

5. It is thus clear from the reply that it is from the experience in operating the rules that it was realised that the Assistants who had been recruited in pursuance of a Competitive Examination or a Limited Departmental Examination were at a considerable disadvantage. So far as results of the Grade 'C' Stenographers are concerned, they were declared in the same year in which the examination is held whereas so far as the results of the assistants examinations are concerned, they were declared in the next year. Those who took the Assistants Grade Examination had to wait for an year before they could be appointed whereas the Grade 'C' who had taken the examination for their appointment would become eligible for appointment within six months' after taking the examination. It was thus found that the assistants were at a disadvantage. It is in order to neutralise the prejudice caused to the assistants on account of the delay in the declaration of the results that the impugned proviso prescribes completion of not less than 4 years of service in the Assistants Grade who are recruited in pursuance of a competitive examination or a limited Departmental examination as qualifying service. This rule has been in existence and has been in operation without objections for a long period from 1976. In our opinion, the justification pleaded before us is just and reasonable as the impugned proviso to Rule 3 has been engrafted for the purpose of removing the injustice caused on account of the administrative delay against the assistants. We, therefore, hold that the impugned proviso does not offend Articles 14 and 16 of the Constitution.

6. For the reasons stated above, this petition fails and is dismissed. No costs.

  
(I.K. RASGOTRA)  
MEMBER (A)

  
(V.S. MALIMATH)  
CHAIRMAN