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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 2426/90

New Delhi this the 9th day of January, 95.

Shri N.V. Krishnan, Vice Chairman(A).

Dr. A. Vedavalli, Member(J).

1. Inder Kumar

2. Ms Harcharan Kaur

(Both Stenographers, working
in the office of the Deputy
Commissioner, Delhi Admn. Delhi).

... Petitioners.

By Advocate - none.

Versus

1. Delhi Administration through
its Chief Secretary,
5, Sham Nath Marg,
Delhi.

... Respondent.

By advocate - None.

ORDER (ORAL)

Shri N.V. Krishnan, Vice Chairman(A).

When this matter was taken up, only the first applicant was present. His counsel was not present even on the second call. The applicant had gone to call his counsel, but the counsel has not appeared so far. Hence, we proceed to dispose of this application.

2. The two applicants are Stenographers working in the office of the Deputy Commissioner, Delhi Administration. Their grievance is that they have been denied confirmation on the post of Stenographer though they have put in service on that post from 1968. Hence, they have prayed for the following reliefs:

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- "(a) call for the records of the case;
- (b) pass an order directing the respondents to regularise/confirm the applicants in the grade of Stenographers with effect from their respective dates of initial appointments;
- (c) pass an order directing the respondents to give to the applicants all consequential benefits arising out of such regularisation/confirmation, such as fixing their seniority in the grade from their initial entry into the grade, considering them for promotion to the next higher grades, etc;
- (d) pass such further order(s) or direction(s) which this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case".

3. The two applicants were appointed on 26.8.1968 as Stenotypists on a purely temporary and emergency basis in the department of Sales-Tax. Though the initial appointment was for a period of three months, it was continued from time to time until further orders.

4. The post of Stenotypist was upgraded to the post of Stenographer w.e.f. 1.4.1972 by the letter dated 30.4.1973 of the Delhi Administration. The extracts of that letter have been reproduced in para 4.7 of the O.A. That letter itself has been produced at Annexure-7.

5. Consequent upon the decision to convert the post of Stenotypist into that of Stenographer, the decision as to how the Stenotypists should be treated in regard to their absorption as Stenographers was communicated by the Annexure-7 letter dated 30.4.1973. The Stenotypists were classified into three categories;

- (i) Stenotypists working on regular basis;
- (ii) Stenotypists working on ^{ad hoc basis on} the recommendation of the Delhi Administration;

- (iii) Stenotypists appointed on ad hoc basis
direct by the Heads of the Department.

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The applicants fall under/third category. In respect of this category as well as those belonging to category (ii), it was decided that they may also be appointed to the converted post of Stenographers in the scale of Rs.130-300 by giving them relaxation of age limits, wherever necessary, but that they would be required to pass a test, within a period of two years from the issue of that letter, in stenography at the speed of 80 w.p.m. in English or 60 w.p.m. in Hindi, as the case may be, to be conducted by the Administration from time to time. It was also decided that failure to do so may render them ineligible for continuance or confirmation as Stenographers in the scale of Rs.130-300. It was further directed that the appointments of such stenotypists on the converted post of stenographers should, however, be purely on ad hoc basis and the question of their regularisation would be considered from the date of passing the test within the period specified above.

6. Admittedly, such tests were held after the issue of this instruction and the applicants could not succeed in three tests held between 1976 and 1978. After 1978, no test has been held.

7. In the circumstance, the applicants are being denied the benefit of regularisation/confirmation on the ground that they did not pass the test. It is in this circumstance that the prayers mentioned above have been made in this O.A.

8. The main grounds are that when the applicants were given ad hoc promotion, it was after due selection and passing the prescribed test. Therefore, the action of the

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respondents in not regularising the applicant is unfair.

9. It is further stated that there are two employees namely, Shri Zile Singh and Smt. Jeevan Prabha who also had not passed this test but yet, by orders dated 6.5.1980 and 16.6.1983 respectively, the names of these persons have been included in the seniority list of regular Stenographers at Serial Nos. 366-A and 419-B.

10. The respondents have filed their reply contesting this claim. They point out that, on their own admission, the applicants did not pass the examinations held, which they were required to pass in terms of the instructions issued by the administration on 30.4.1973, Annexure-7 of the O.A. and Annexure-I of the reply. In so far as Shri Zile Singh and Smt. Jeevan Prabha are concerned, their cases are different because it was verified and found that these officials had been appointed as Stenotypists on a regular basis by their departments in 1963 and 1967 respectively. As such, their cases would be covered by para 3.1 of the O.M. dated 30.4.1973 which directs that they should be appointed as Stenographers by giving them relaxation age and exempting them from passing a test in english/hindi shorthand. In the circumstance, it is prayed that this O.A. has no merit and should be dismissed.

11. We have considered the pleadings. It is quite clear that the applicants on their own admission were appointed only on ad hoc basis as Stenotypist in 1968. The instructions regarding appointment to the upgraded post of Stenographers required that such ad hoc stenotypist should pass the examinations within a period of two years. Admittedly, the applicants did not pass that examination. Therefore, they are not entitled to regularisation as Stenographers. The cases of Shri Zile Singh and Smt. Jeevan Prabha have been satisfactorily

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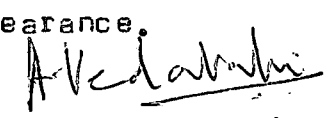
explained by the respondents. The applicants cannot compare themselves with these two persons.

12. At this stage, the applicants cannot also question the directions given in the circular dated 30.4.1973 particularly after having appeared in the examination thrice but failed.

13. We further notice that when the application came up on 27.11.1993, an interim direction was issued to the respondents to consider the case of the applicants for promotion to the eligible grade of the Delhi Administration Subordinate Service Cadre in terms of their letter dated 16.10.1989 at Annexure-15 of the application. In respect of this order, the applicants had filed CCP which has been dropped by the order dated 10.8.1992, by finding that in the DPC held on 6.7.1992 the case of the applicant was considered.

14. In the circumstance, this application has no merit and accordingly, it is liable to be dismissed. The Annexure-7 instructions dated 30.4.1973 contemplate that the service of persons who do not pass the examination could even perhaps be terminated. Though there is no merit in the O.A., we are of the view that as the applicants have been continuing for a long time since then, their services cannot be terminated, merely on the ground that they did not pass the requisite examination. Therefore, we dismiss this O.A. but with the declaration as above.

15. At this stage, Ms Shali Bilotra, proxy counsel for Mrs Avnish Ahlawat, Counsel, for respondents entered appearance.


(DR. A. VEDAVALLI)
MEMBER(J)


(N.V. KRISHNAN)
VICE CHAIRMAN(A)

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