

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-1499/91

Date of decision: 4.3.1992

Shri Nihal Singh Applicant

Versus

Union of India through
the Chairman, Central
Board of Direct Taxes
& Others Respondents

For the Applicant Shri D.K. Garg, Advocate

For the Respondents Shri R.S. Aggarwal, 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 Mr. P.K. Kartha,
Vice Chairman(J))

The applicant, who is working as a Typist in the Income Tax Department, Agra, since 10.2.1988, claims that he is a qualified person and that he is entitled to be regularised on the post of English Typist. He is also seeking for a direction for granting him the same scale of pay and wages as are being paid to other Typists appointed on regular basis.

2. The applicant states that he is also similarly situated like Shri Kanta Prasad & Others, who had filed OA-1707/88 in the Tribunal which was disposed of by judgement dated 25.5.1990.

3. The applicant was appointed as a Group 'D' employee on 24.4.1987 on daily-rated basis. He, however, claims that since the date of his appointment, he was working as Hindi/English Typist. He has stated that the Deputy Director of Investigation conducted a test for the post of Hindi/English Typist in which he was found fit. However, he is being paid only at the rate of Rs. 23/- per day.

4. The respondents have stated in their counter-affidavit that there is no post of English Typist in the office of the respondents in which the applicant could be regularised. They have not, however, denied having engaged the applicant as a Typist on casual basis.

5. We have gone through the records of the case and have considered the rival contentions. In the earlier case of Kanta Prasad and Others, this Tribunal held in its judgement dated 25.5.1990 that persons who were working as Typists in the office of the Commissioner of Income Tax, Agra, should be paid the minimum of the pay-scale of Typists. In that case, they only pressed the claim for granting them the minimum of the scale applicable

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to the post of Typist. They did not press the prayer for regularisation of their services at this stage.

6. The applicant has relied upon numerous decisions of the Supreme Court and of the High Court and we have duly considered them.

7. In our opinion, the mere fact that the applicant has continued to work as English Typist since February, 1988, does not make him eligible for regularisation in the said post. The applicant has not referred to the relevant recruitment rules and as to how he becomes eligible for regularisation.

8. In the circumstances, the application is disposed of with a direction to the respondents that the applicant should be paid the minimum of the pay-scales of Typist, and that he should be considered for regularisation, in accordance with the relevant recruitment rules, if vacancies are available. For the purpose of regularisation, the respondents shall relax the age-limit to the extent of the service already rendered by him as Typist. In the facts and circumstances, we do not direct payment of back wages to him. There will be no order as to costs.

B.N. Dhundiyal
(B.N. Dhundiyal)
Administrative Member

P.K. Kortha
4/3/82
(P.K. Kortha)
Vice-Chairman (Jdil.)

* Decisions relied upon by the learned counsel for the Applicant:

Judgement of this Tribunal dated 16.12.90 in C.W.30/88 - Ramesh Chandra Vs. Union of India & Ors.; Judgement of the Madhya Pradesh High Court in BP-2562/83 dated 15.10.85 - Mrs. Usha Devi Vs. Union of India through Secy., CSDT & Ors; Bhagwati Prasad Vs. Delhi State Mineral Development Corp., AIR 1990 SC 371; Judgement of Haryana H. C. Lt. C.W.88 in C.W.P.72/88 - P. K. Singh & Ors. Vs. State of Haryana & Ors.