

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.NO. 2326/91

Date of decision: 25th Sep. 92.
" " " " "

Smt. Usha Sharma

Applicant

....

versus

Union of India
through Secretary,
Min. of Railway&Ors.

Respondents

....

Coram:-

The Hon'ble Sh. T.S. Oberoi, Member(J)

The Hon'ble Sh. I.K. Rasgotra, Member(A)

For the applicant : Sh. B.S. Mainee, counsel.

For the respondents : Sh. O.P. Kshatriya, counsel.

1. Whether local reporters may be allowed to see the judgement? *yes*
2. To be referred to the reporter or not? *no*

(Judgement)
(of the Bench delivered by Hon'ble Sh. T.S. Oberoi, Member(J).

In this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who has worked as daily rated Stenographer for a period of about 9 years, prays for regularisation as such, in the pay scale of Rs. 330-560/1200-2000/- attached to the post with fixation of salary from the date of her appointment and consequential benefits of increments and arrears.

2. The case of the applicant in brief is that she had been performing the duties of a Stenographer, though on daily-rated basis since 1.12.82; that she possessed all the requisite qualification for the post in question; that instead of regularising her as a Stenographer, she has been given a lower post of Class IV with effect

1.1.84; that she had made numerous representations to the authorities concerned but without any result. The applicant claims that having worked as Stenographer though on daily wage basis, she is entitled to get salary attached to this post on the principle of equal pay for equal work, instead of regularisation in a Class-IV post, as done in her case. She also claims regularisation as a Stenographer as she has worked against a regular post of Stenographer.

3. The respondents have opposed the applicant's case and have filed their counter-affidavit stating that the applicant was engaged as Stenographer on daily wage basis with a clear stipulation that her services will be terminated without any notice, on a regular incumbent to the post being made available by the Railway Service Commission; that the engagement being on daily wage basis, the question of grant of scale of Rs.1200-2040 does not arise; that the recruitment to the post of Stenographer is not within the competence of the Railway Electrification programme, being a project; that as per Railway Board's letter dated 11.9.86, she was granted temporary status in the initial Class-IV post with effect from 1.1.1984 since there is no provision to recruit Stenographers directly in the project; that the candidates who qualify in the test held by Railway Recruitment Board or departmental test conducted by the Zonal Railways alone are posted as Stenographers in the scale of Rs.1200-2040; that since the applicant is a casual employee, the doctrine of equal pay for equal work is not applicable;

that the engagement of the applicant is not against a regular post; and that only possessing requisite qualifications is not sufficient for regular appointment as a Steno, unless the person concerned is selected by the Railway Recruitment Board, which meets demands of various Zonal Railways/Projects, by furnishing duly selected hands.

4. We have heard the learned counsel for both parties and perused the material placed by them on record. The learned counsel of the applicant pleaded that the applicant had been performing her duties to the entire satisfaction of the officers, with whom she was posted, and thus to deny her the scale of a Stenographer is nothing short of exploitation, and to say the least, is unethical, particularly in view of the considerable spell for which she had been working as a Stenographer. The learned counsel for the respondents, on the other hand, pleaded that the applicant knew stenography and, therefore, in order to remain in touch with that work, she herself came forward to do the work of a Stenographer, rather than of the post against which she was engaged and that there was no compulsion on behalf of the department, requiring her to do that work, and that the post of Stenographer being a Class-III post, without having qualified for the same, through Railway Recruitment Board, examinations for which are periodically held but the applicant never competed for the same. He further pleaded that there

(B)

was no impediment in her way for not applying and competing for the post of a Stenographer, through the Railway Recruitment Board, but it seems that the applicant was herself reconciled to the emoluments which were granted to her on her engagement in the capacity, as mentioned above.

5. We have given our careful consideration to the rival contentions, as put forth by both the parties. The present O.A. has been filed by the applicant on 7.10.1991, whereas the cause of action first arose to her as far back as 1.12.1982. Thus the present O.A. is obviously much belated and time-barred. The applicant does not seem to have shown any earnestness to compete for the post of Stenographer, by applying for the periodical tests which must have been held during all these years. The post of Stenographer being a Class-III post, her claim for regularisation of her appointment on that post without qualifying through the Railway Recruitment Board cannot, we are afraid, be conceded. On these grounds alone, the O.A. deserves to be dismissed and is accordingly dismissed, with no order as to costs.

Subhash
(I.K. RASGOTRA)
MEMBER(A) 25/9/92

Aben 25.9.92
(T.S. OBEROI)
MEMBER(J)