

Central Administrative Tribunal, Principal Bench

O.A.No.797/91
M.A.No.2876/93

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 26th day of February, 1997

Vikram Kumar
s/o Shri Bhagwan Dass
working as ASI(Steno.)
with Delhi Police
To D-13, Jangpura Extension
New Delhi - 110 014.

... Applicant

(By Shri Jagjit Singh, Advocate)

Vs.

1 Union of India
through Secretary
Ministry of Home Affairs
North Block
New Delhi.

2 Delhi Administration
through Lt. Governor
Raj Niwas
Delhi.

3 Commissioner of Police
Delhi Police Headquarters
I.P.Estate
New Delhi.

4 Dy. Commissioner of Police
HQ(D), Delhi Police Headquarters
I.P.Estate
New Delhi.

... Respondents

(By Shri Arun Bhardwaj, Advocate)

O R D E R(Oral)

R.K.Ahooja, Member(A)

The applicant, Shri Vikram Kumar was working as Head Constable (Ministerial) in Delhi Police when he applied for the post of Assistant Sub-Inspector(Stenographer) and was called before the Selection Board on 12.4.1982. The prescribed speed in shorthand and typing was 100 words per minute (w.p.m) and 40 w.p.m. respectively. He was informed by the Selection Board that in the shorthand test he had obtained only 99.4 w.p.m. against the required speed of 100

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w.p.m. After the interview, the applicant was promoted as Assistant Sub-Inspector(Stenographer) in Delhi Police on temporary and ad-hoc basis against the regular vacancy vide order No.8996 dated 5.5.1982. Applicant submits that he continued to work as ASI (Stenographer) without any break though the respondent had shown certain artificial breaks from 5.5.1982 to 7.2.1983. In the year 1985, the rules were amended and speed in Shorthand for ASI(Stenographer) was prescribed at 80 w.p.m. The applicant also participated in the said Test held in the year 1986. However as there was a shortfall of 0.6 w.p.m., the case of the applicant was referred by Respondent No.3 and 4 to the Lt. Governor, Delhi for relaxation since the shortfall was very marginal. The Lt. Governor condoned the shortfall in exercise of the powers under Rule 30 of the Delhi Police (Appointment & Recruitment) Rules, 1980 vide his letter dated 16.6.1987. In the meantime, before the approval of the Lt. Governor was received, the applicant was declared successful on the basis of the Test held in the year 1987 and was so informed vide letter dated 14.5.1987 (Annexure P5). The applicant made a representation to the respondents that since the Lt. Governor had accorded relaxation, he should be regularised as ASI(Stenographer) with effect from 5.5.1982, i.e., the date on which he was initially appointed on ad hoc basis. The applicant states that he also made a representation on the basis of a similar case of ad hoc appointment of one Shri Ashok Kumar, T.No.497 /85 in Civil Writ No.1133/79 decided on 22.4.1988 by this Hon'ble Tribunal, whereby Shri Ashok Kumar, who had been working as Constable and was appointed as Hindi Shorthand Reporter on ad hoc basis, was directed to be considered for confirmation if found eligible. The applicant in the meantime also sought promotion to Sub-Inspector (Stenographer), and vide order dated 25.2.1991 (Annexure P12)

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was allowed notional promotion as Sub-Inspector(Stenographer) on the basis that he had completed 7 years of service by 1991. However, by the impugned order dated 15.2.1991 (Annexure P13) the said order of notional promotion was held in abeyance on administrative grounds. The applicant now seeks a direction to quash the impugned orders dated 15.2.1991 holding his promotion as Sub-Inspector in abeyance, the memorandum dated 1.9.1987 and order dated 1.2.1988, rejecting his representation and also to direct the respondents to regularise him w.e.f. 5.5.1982 as ASI(Stenographer) with all consequential benefits.

2. The respondents in their reply statement have submitted that the promotion of the applicant as ASI(Stenographer) w.e.f. 5.5.1982 was purely on temporary and on ad-hoc basis. On qualifying the test, he was appointed on regular basis as ASI(Stenographer) w.e.f. 14.5.1987. They admit that since he had failed to attain the speed of 80 w.p.m., as required under the amended Rules, by a small margin, the respondent No.3 was approached by Delhi Administration (Respondent No.2) for grant of relaxation. They however, submit that before the receipt of the approval of the Lt. Governor's order dated 16.6.1987, action for regularisation had already been taken w.e.f. 14.5.1987.

3. We have heard the learned counsel on both sides. The applicant had failed to qualify the Shorthand Test held in 1982. His appointment thereafter was given on ad hoc and temporary basis and no benefit can be given to him for this ad hoc promotion as regards his seniority since it was d'hors the Rules prescribing the minimum shorthand speed. However, the respondents themselves sought and obtained the relaxation in respect of the 1986 Test from the Lt. Governor. A copy

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of the Lt. Governor's approval order dated 16.6.1987 is at Annexure P4. Once the relaxation is obtained, the applicant would be deemed to have qualified in the Test in 1986. Just because he appeared in the year 1987 Test and qualified before the approval of the Lt. Governor for relaxation in respect of the 1986 Test was **received** is no reason that he should be denied the benefit of the said relaxation.

4. Accordingly, the OA is partly allowed and the respondents are directed to fix the applicant's seniority as ASI(Stenographer) on the basis of the 1986 Test as if he had passed in the 1986 Test with all consequential benefits within two months from the date of receipt of this order. No costs.

R.K. Ahuja
(R.K. AHUJA)
MEMBER(A)

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)

/rao/