

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

(3)

O.A. No.213 OF 2004

New Delhi, this the 13th day of April, 2004

HON<sup>BLE</sup> SHRI SHANKER RAJU, JUDICIAL MEMBER  
HON<sup>BLE</sup> SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Khyali Ram  
S/o Shri Dan Ram,  
R/o 668, Sector-3,  
Pushp Vihar, New Delhi-17.

....Applicant

(By Advocate : Shri Anil Singal)

Versus

1. Union of India  
Through its Secretary,  
Ministry of Human Resources & Development,  
Dept. of Education (literacy),  
Block No.10, Jam Nagar House,  
New Delhi-110011.

2. Director,  
Department of Education (literacy),  
Directorate of Adult Education,  
Block No.10, Jam Nagar House,  
New Delhi-110011.

.....Respondents

(By Advocate : Shri R.N. Singh)

ORDER (ORAL)

SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER :-

This Original Application under Section 19 of the Administrative Tribunals Act, 1985 has been filed seeking a direction to the respondents to quash and set aside the order dated 16.1.2002 (Annexure A/1) whereby the applicant an ad hoc Lower Division Clerk was reverted to the post of a Peon.

2. It is claimed by the applicant that he was appointed to the post of Peon on 1.6.1988. He was promoted to the post of Lower Division Clerk on ad hoc basis on 24.9.1992. While working as Lower Division Clerk, he had also passed typing test. The claim of the applicant is that having worked for such a long

*C. Singh*

period, he cannot be reverted to the post of Lower Division Clerk. Relying on the decision of the Hon'ble Supreme Court in the case of State of Hayana Vs. Piara Singh 1992 SCC (L&S) 825, it has been stated that a person having discharged duties of a particular post for a long period should have been regularised. According to the learned counsel of the applicant, the applicant has been working on the post of Lower Division Clerk for such a long period, he had legitimate expectation that he was to be regularised. He, therefore, urged that the impugned order to be quashed and set aside and the applicant be regularised as Lower Division Clerk.

3. The respondents have opposed the prayer of the applicant. It has been stated by the respondents that the applicant was appointed as Peon w.e.f. 1.6.1988. He was appointed as Lower Division Clerk along with his two colleagues purely on ad hoc basis for 89 days w.e.f. 7.10.1992. He continued to work as Lower Division Clerk on ad hoc basis upto 30.9.1993 with breaks after each spell of 89 days. He worked as Peon upto 19.12.1993. However, he was again appointed as Lower Division Clerk on ad hoc basis for 89 days w.e.f. 20.12.1993. According to the respondents the ad hoc promotion orders do not give rise any claim for regular appointment. Such ad hoc services were not even to be counted for the purpose of seniority in the grade. Since there were vacancies on account of

*Signature*

promotion of some Lower Division Clerks, ad hoc promotion arrangement was made. The learned counsel pointed out that the applicant had also filed OA NO.1586/2001 which was disposed of by order dated 13.3.2002 with the following directions:-

- "(i) Applicant should be considered for regularization in their own, i.e., 10% cut promotion quota admissible for Group "D" employees for promotion to LDC's Cadre.
- (ii) Applicant should not be replaced other than by regularly appointed LDCs."

4. According to the learned counsel of the respondents, the present Original Application should not be entertained in view of the order dated 13.3.2002 of this Tribunal. The respondents have further pointed out that the applicant being junior-most has been revealed <sup>✓</sup> w.e.f. 15.1.2004 on the appointment of one regular candidate. So far as promotion of the applicant within 10% of promotion quota is concerned, there was no vacancy available at present and the applicant is likely to be considered in his turn.

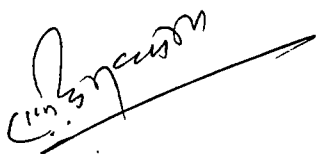
5. The respondents have further disputed the claim of the applicant that he was regularly appointed as Lower Division Clerk in 1992 after he passed the requisite type test. It has been stated that the type test taken was only for the purpose of ad hoc promotion of the applicant. The applicant has never passed the examination/type test conducted by the

*P. Srinivasan*

competent authority, i.e., Staff Selection Commission as prescribed under the rules.

6. We have heard the learned counsel of the parties and have perused the material available on record.

7. In terms of the order dated 13.3.2002 in OA No.1586/2001, the applicant is being replaced by regularly appointed Lower Division Clerk. He being the junior-most Lower Division Clerk has been reverted to the substantive post of Peon. The respondents have not denied that the applicant will be considered for regularisation in 10% promotion quota in his turn. It is not the case of the applicant that someone junior to him has been given regular promotion as Lower Division Clerk. The reliance placed by the applicant on the decision of the Hon'ble Supreme Court in the case of Piara Singh (supra) is not in conformity with the legal position. The applicant was promoted as Lower Division Clerk on ad hoc basis. Such a person could always be reverted by regularly appointed Lower Division Clerk. Even otherwise, the applicant had no right in his favour on account of ad hoc promotion for 89 days. It has also been pointed out by the respondents that the applicant never continuously held the post of Lower Division Clerk from 1992 as claim by the applicant. On the other hand, in between he has worked as Peon also. We do not find any infirmity in



the impugned order of reversion of the applicant to the post of Peon.

8. In view of what is stated in the preceding paragraphs, this OA being without any merit is dismissed without any order as to costs.

*R.K. Upadhyaya*

(R.K. UPADHYAYA)  
ADMINISTRATIVE MEMBER

*S. Raju*

(SHANKER RAJU)  
JUDICIAL MEMBER

/ravi/