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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

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REGN. No. RA 36/87

Date of Decision:- 3.7.87.

Shri Jagdamba Prasad Tripathi &  
others

...

Petitioners

Vs.

Union of India and others

...

Respondents.

CORAM:- Hon'ble Mr. Birbal Nath, Member (A)  
Hon'ble Mr. G. Sreedharan Nair, Member (J)

For the Petitioners

...

Shri K.K. Rai, Advocate

For the Respondents

...

Shrimati Raj Kumar  
Chopra, Advocate.

Order

( Judgement of the Bench delivered by Hon'ble  
Mr. G. Sreedharan, Member (J) ).

JUDGEMENT

Heard Shri K.K. Rai on behalf of the petitioners,  
and Smt. Raj Kumari Chopra, counsel on behalf of the  
respondents, who has appeared and opposed the petition.

2. This is a petition wherein the petitioners who  
are <sup>116</sup>applicants in the main <sup>application</sup> petition have prayed for review  
of the final order passed on 3.4.1987.

3. <sup>Sole</sup> The ~~so~~ relief that was claimed in the main application  
was to quash the order refusing the regularisation of  
the service of the applicants in the cadre of Lower Division  
Clerk. The applicant <sup>has</sup> claimed that in view of their  
having <sup>been</sup> promoted on Ad hoc basis to the grade of L.D.C.s  
and having worked in the post from the various dates  
commencing from 5.7.1977 in the case of <sup>116</sup>third applicant

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to 14.5.80 in the case of 5th applicant, and having been assured that their services <sup>would</sup> ~~could~~ be regularised the rejection of the representation on that <sup>behalf</sup> ~~principal~~ is illegal.

3. When the main application was <sup>disposed of</sup> ~~heard~~ the counsel on either side were heard and it was after considering the various grounds <sup>of</sup> ~~of~~ attack that it was held that the applicants are not entitled to the relief prayed for. At the same time it was made clear in the order that ~~the~~ dismissal of the application will not stand in the way of the applicants being considered for regularisation in accordance with the Rules and the conditions contained in communication dated 24.10.85 from the Ministry of Education to the <sup>Hindi</sup> Directorate wherein the applicants are employed.

4. In this review petition four grounds are urged:-

- (i) A re-appreciation is to be made <sup>of</sup> ~~of~~ the decision of the Supreme Court in Narender Chadda's case and the principle <sup>laid down</sup> ~~laid down~~ has to be applied in <sup>that</sup> ~~that~~ case;
- (ii) though the applicants have been "dubbed" as ad hoc, they have actually been working in regular capacity;
- (iii) when the sister organisations are allowed to relax the rules <sup>by</sup> ~~and~~ non relaxation of rules <sup>by</sup> ~~by~~ the Central Hindi Directorate has violated the Articles 14 and 16 of the Constitution.
- (iv) The petitioners <sup>have</sup> ~~are~~ crossed the age limit so as to <sup>get</sup> ~~clear~~ the departmental promotion as per the Rules, and that all the applicants will not be entitled to such absorption as the quota available to them is only 10 per cent.

5. We are afraid that none of these four grounds emphasised

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in the petition. ~~As their~~ valid ground for review of the final order passed in this case after hearing the counsel on either side and after detailed and elaborated consideration of the issues involved. They may perhaps ~~offer~~ <sup>afford</sup> grounds for appeal.

6. Counsel for the petitioners submitted in the course of his arguments on this petition that <sup>the</sup> passage in the judgement of Supreme Court in Narender Chadha's case has been relied upon by this Tribunal out of contexts, which has resulted in miscarriage of justice. ~~Since as the arguments was~~ <sup>advanced</sup> ~~we patiently~~ allowed the counsel to elaborate <sup>after hearing him we are</sup> on all these points. However, ~~we~~ not impressed that there is any substance in these submissions.

7. In the context, it has also to be pointed out while arguing the review petition the counsel for the petitioners even went to the extent of submitting that the appointments of these applicants is not really ad hoc. We would like to refer ~~us~~ to clause (a) of paragraph 6 of the main application wherein it has been categorically stated that "these Group 'D' employees were promoted on ad hoc basis to the grade of Lower Division Clerk". The counsel of petitioners invited our attention to the orders of appointment. But not only <sup>the</sup> orders of appointment, but even the circumstances under which these petitioners happened to be appointed as Lower Division Clerk <sup>have been adverted</sup> ~~even it will be~~ <sup>final</sup> ~~adversed~~ to in the ~~official~~ <sup>the</sup> order wherein Tribunal has referred to the fact that it was merely on the request of these petitioners that they <sup>were</sup> ~~be~~ considered for ad hoc promotion to the post of Lower Division Clerks, which <sup>had</sup> ~~are~~ fallen vacant ~~with the department make the appointment.~~ <sup>the</sup> The Office Memorandum dated 13.2.79 by which the department of Personnel and Administrative Reforms permitted the Central Hindi Directorate to allow the request of these petitioners, though they were not strictly eligible as per ~~their~~

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their instructions dated 25.6.75, clearly states that  
" such permission will be subject to the conditions that  
they will not request to regularise the ad hoc appointment!  
It was in this back ground that while considering the  
claim of the petitioners the scope of the decision of the  
Supreme Court in Narender Chauda's case was discussed  
and considered. That was <sup>a</sup> the case where ~~the~~ persons ~~who~~  
were allowed to function in the Higher post about 15 to 20  
years, and that too with due deliberation. It was ~~there held~~  
that it will be unjust to hold that they have no sort of  
claim to the post, taking note of the fact that Government  
is endowed <sup>with the power</sup> to relax the rules, <sup>on its account</sup> and it was in this background  
the passage in the judgement of the Supreme Court that it  
is not the view of the Supreme Court that whenever a person  
is appointed in a post without following the Rules  
prescribed for appointment to that post, he should be  
treated as a person regularly appointed to that post, was  
made in the <sup>final</sup> official order. We have <sup>least</sup> hesitated to say  
that <sup>the</sup> such passage was not quoted out of context, and we  
have also to place <sup>it</sup> on record <sup>we</sup> are not at all impressed  
by the submissions of the counsel for the petitioners that  
it <sup>has led</sup> ~~is led~~ to " miscarriage of justice".

8. The three other grounds urged as has been stated  
at the outset. Not being valid grounds for review, we  
do not <sup>think</sup> ~~find~~ that we should enter into <sup>a detailed</sup> discussion as to  
those grounds in this order. Suffice <sup>it</sup> to say that the  
matter comprised <sup>under</sup> of all these three grounds has also been  
duly considered in the final order.

9. We dismiss the review petition.

3/7/87  
( Birbal Nath )  
Member

3.2.1987  
( G. Sreedharan Nair )  
Member

Dated:- 3.7.87.