

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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O.A. NO. 1963/92

Date of Decision : 12.11.92

Shri Parkash Tahiliani

...Applicant

Vs.

Union of India

...Respondent

CORAM

Hon'ble Shri P.C. Jain, Member (A)

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Shri G.K. Aggarwal

For the Respondent

...Shri P.P. Khurana

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J)

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The applicant is working as Lower Division Clerk on temporary basis in the Office of Registrar of Newspaper (Ministry of Information and Broadcasting) and has assailed the orders dt. 7.4.1992 and 1.7.1992, ^{passed by Respondent} praying for a direction to the respondent to treat the applicant in continuous service as L.D.C. ever since 7.1.1980 to 6.4.1986 and as Stenographer Grade 'D' eversince 7.4.1986 onwards and not to give effect to termination of his services as L.D.C./Steno Gr.'D' as contemplated in the impugned orders (Annexures-A1 and A2).

2. We have heard the learned counsel on merit at the admission stage as the pleadings stand completed. The

applicant earlier filed the O.A. 166/87 in the Principal Bench of the Central Administrative Tribunal for a declaration that the verbal order of termination dt. 19.8.1986 be set aside. That O.A. was allowed by the judgement dt. 5.7.1991 and the order of termination dt. 19.8.1986 and 22.12.1986 were set aside directing the respondents to take back the applicant in the post from which he was terminated with the liberty to issue fresh orders of termination giving a notice to the applicant on the ground for such an order. When the applicant was taken into service, he filed C.C.P. 95/92 before the Principal Bench of the Tribunal. During the pendency of the C.C.P., respondent issued a Memo dt. 7.4.1992 appointing the applicant as Stenographer Grade 'D' subject to certain conditions laid down therein. In the aforesaid C.C.P. 95/92, the counsel for the applicant gave a statement that since the judgement of the Tribunal in O.A. 166/87 dt. 5.7.1991 has been complied with, so the C.C.P. be allowed to be withdrawn and it was so ordered dismissing the same on the same day, i.e., 5.5.1992 (Annexure A to the counter). Subsequent to this, Memo dt. 1.7.1992 (Annexure A2) was issued by the respondent terminating the services of the applicant on the expiry of one month's period. He was, however, by the same Memo given an ad-hoc appointment as L.D.C. on the conditions laid down in the said Memo. One of the conditions has been that he should qualify in the Clerks' Grade Examination, 92

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conducted by Staff Selection Commission. The applicant, therefore, is continuing as ad-hoc L.D.C. and has also taken the 1992 Clerks' Grade Examination.

3. The learned counsel for the respondents argued that the applicant has no lien on the post of L.D.C. in as much as his services were terminated w.e.f. 1.7.1985. However, he was re-engaged on ad-hoc basis with certain breaks till 30.6.1986. He could not qualify in the special qualifying examination held by Staff Selection Commission in 1985. He was appointed on ad-hoc basis as Stenographer Grade 'D' w.e.f. 7.4.1986 to 30.6.1986 against a short term vacancy. In his appointment, it was made clear that his services are purely temporary and on ad-hoc basis and will not confer on him any claim for regular appointment in the grade and his services will stand terminated w.e.f. 14.8.1986. It is further argued that his appointment was made on the basis of the judgement in O.A. 166/87 decided on 5.7.1991 by creating an ad-hoc post for a specified period. His case for regularisation was also taken up with the Department of Personnel and Training and Ministry of Law and the applicant has also been given an appointment as L.D.C. His regularisation in the grade will be subject to his qualifying the Clerks' Grade Examination, 1992. The applicant had already accepted the offer and as such, has no claim for the post of Steno Grade 'D' on which he was initially appointed pursuant to the judgement in O.A. 166/87. The services of the applicant, therefore, could not be regularised as per the OM No.6/60/84-CS-II

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dt. 22.5.1985.

4. In view of the above undisputed facts, the applicant's prayer in the present application that he should be deemed to be in continuous service as L.D.C. ever since 7.1.1980 to 6.4.1986 and as Steno Grade 'D' from 6.4.1986 onwards cannot again be adjudicated by virtue of the decision in the earlier O.A. No.166/87 decided on 5.7.1991. The operative portion of the judgement gives the following direction to the respondent :-

"The applicant be taken back in the post from which he was terminated. The respondents will be at liberty to issue fresh orders of termination giving a notice to the applicant of the ground for such an order."

No direction, as is evident, was issued in the judgement aforesaid to treat the applicant in continuous service, either as L.D.C. or as Stenographer Grade 'D'. The applicant, therefore, cannot agitate that ever again and it is barred by the principles of res judicata. The other prayer in the application that the respondent be restrained from giving any effect to termination of the applicant's services as L.D.C./Steno Grade 'D' as contemplated in Annexures A1 and A2, the judgement in O.A. 166/87 empowers the respondent to terminate the services after giving a notice to the applicant. The applicant, therefore, cannot have any grudge on that account and is also bound by the stand taken in the C.C.P. No.95/92.

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5. In view of the above discussion, the present application is devoid of merit and is dismissed leaving the parties to bear their own costs.

AKS

Signature

(J.P. SHARMA) 12.11.92
MEMBER (J)

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(P.C. JAIN)
MEMBER (A)