

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1246/93

DECIDED ON : 07.06.1993

DHARAMVEER

...

PETITIONER

VS.

CHIEF SECRETARY, DELHI ADMINISTRATION & ORS.

...

RESPONDENTS

CORAM :

THE HON'BLE MR. I. K. RASGOTRA, MEMBER (A)
THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri Rishi Kesh, Counsel for Petitioner

J U D G M E N T (ORAL)

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

Heard the learned counsel for the petitioner. The petitioner submits that he had filed OA 207/86 which was decided on 20.9.1991. According to the direction given in that OA the petitioner was required to be empanelled by the respondents for casual appointment to the post which he was holding. It was further directed that his over all length of service from May, 1980 upto 30.4.1986 as a single unbroken spell of employment on casual/ad-hoc basis be considered for determining his seniority. It was further directed that he should be granted three chances to appear in a test or examination for regular appointment as a Typist-Clerk or any other Group 'C' post for which he is eligible, "deeming the age limit to have been relaxed in his case." The test was to be

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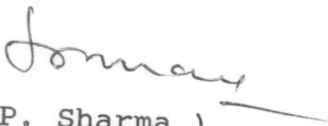
administered directly by the respondents or by the Staff Selection Commission (SSC). As the direction was not implemented to the satisfaction of the petitioner, he filed CCP No. 313/92. This CCP appears to have been disposed of by not pursuing any further in view of the copy of the order dated 26.9.1992 which was filed by the respondents in that contempt of court petition. According to the said order, the petitioner was empanelled for appointment on ad-hoc/casual basis to the post which might be filled upon ad-hoc or daily rated basis in the department. The order further states that as regards affording three chances to appear in a test or examination conducted by the Staff Selection Commission for regular appointment as a Typist-Clerk or any other Grade-C post suitable to his qualifications, the matter had been taken up with the Services Department and decision in that regard would be communicated to him in that regard.


2. The case of the petitioner as put forth by the learned counsel for the petitioner is that despite the said order the petitioner has neither been appointed on ad-hoc/casual basis nor he has been given any chance to appear in a test to be conducted by the Staff Selection Commission or by the respondents. The learned counsel further submitted that the test contemplated by the Tribunal either by the department or by the Staff Selection Commission has not been held so far.

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4. In view of the above, we are of the opinion that the basis on which the contempt proceedings were dropped is the order dated 26.9.1992. The understanding given to the Tribunal that the petitioner has been empanelled which obviously would result in a reasonable time in his appointment on ad-hoc/casual basis has not been fulfilled nor has any communication been sent to him in regard to the test to be held by the respondents or the Staff Selection Commission. The understanding/undertaking furnished to the Tribunal has thus not been complied with as stated by the learned counsel for the petitioner. The right course, therefore, for the petitioner would be to file a contempt petition to seek implementation of the order dated 26.9.1992 passed by the respondents in pursuance of the judgment of the Tribunal dated 20.9.1991. More so, ^{as} ~~there is~~ no fresh cause of action which has arisen in the case of the petitioner. It is only the old cause of action which continues despite the judgment of the Tribunal.

5. The learned counsel for the petitioner submits that he would like to withdraw this O.A. with liberty to pursue the matter in contempt proceedings. The O.A. is dismissed as withdrawn with liberty to the petitioner to pursue the matter in accordance with law, if so advised.


(J. P. Sharma)
Member (J)


(I. K. Rasgotra)
Member (A)