

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

OA No.1441/93

Date of decision: 10.09.1993.

Smt. Poonam Thawani

...Petitioner

Versus

Union of India through the  
Chairman, Staff Selection  
Commission, Lodhi Road,  
New Delhi & Anr.

...Respondents

Coram:- The Hon'ble Mr. I.K. Rasgotra, Member (A)  
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner Shri A.K. Behera, Counsel.

For the respondents Shri N.S. Mehta, Senior  
Central Government Standing  
Counsel.

1. Whether reporters of local papers may be allowed to  
see the Judgement? *No*

2. To be referred to the Reporter or not? *Yes*

*I.K. Rasgotra*  
(I.K. Rasgotra)  
Member(A)

7

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For the petitioner

Shri A.K. Behera, Counsel.

For the respondents

Shri N.S. Mehta, Senior  
Central Government Standing  
Counsel.

Judgement(Oral)  
(Hon'ble Mr. I.K. Rasgotra)

We have heard Shri A.K. Behera, learned  
counsel for the petitioner and Shri N.S. Mehta, Senior  
Central Government Standing Counsel for the  
respondents.

2. The case of the petitioner is that the  
respondent Ministry issued a notification in 'The  
Employment News' of 8.10.1988, inviting applications  
for filling up the vacancies in Stenographer Grade 'D',  
Staff Car Driver etc. The said notice further stated  
that the posts have been created for the Technology  
Mission in Oil Seeds (TMO). It further stipulated that  
the vacancies are proposed to be filled up purely on ad  
hoc basis and, therefore, appointments against these  
posts would be made on purely ad hoc basis. "Persons  
appointed would not have any legal right of  
regularisation/permanent absorption after March, 1990.  
Further, the posts would automatically stand abolished

from the date from which TMO is terminated or March, 1990 whichever is earlier."

The candidates were asked to submit their application on plain paper, giving the information indicated in the form. The petitioner applied for the post of Stenographer Grade 'D'. She was selected and appointed on ad hoc basis w.e.f. 5.4.1989. She continued to work as ad hoc Stenographer till 16.6.1993 when her service was terminated. In the meantime, the petitioner had appeared in the Grade 'D' Stenographers Competitive Examination, 1991 (for ad hoc employees) held in September, 1991. As there was some confusion about the date of registration with the Employment Exchange when she was initially appointed in response to the advertisement dated 8.10.1988, her result was stated to have been withheld. This was clarified by her and the respondents admit that she was registered with the Employment Exchange on 9.12.87. The petitioner, therefore, claims that her result for the Staff Selection Examination (SSC) should not have been withheld, as she was eligible to appear in the said examination as an ad hoc employee. It is further prayed that the respondents be directed to declare her result.

3. The basic facts are not disputed by the respondents. They, however, point out that only ad hoc employees who were recruited through the Employment Exchange and were within the age limit for competing in the said Grade 'D' Stenographers Examination were eligible for appearing in the said examination. As the petitioner was not recruited initially through the Employment Exchange, she was not eligible to appear as a departmental candidate, even though she was working as ad hoc Grade 'D' Stenographer. The petitioner had

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represented against the withholding of her result. The said representation was examined in consultation with the Department of Personnel and Training, but, the Department of Personnel and Training did not agree to relax the condition of recruitment through the Employment Exchange. Thereafter the SSC reconsidered the case of the petitioner and decided to treat her as an open candidate for the said examination, as she was within the age limit between 18-25 as on 1.1.1991 fixed for open candidate, but, in view of the advice of the Department of Personnel and Training she could not be treated at par with the other ad hoc Grade 'D' Stenographers, who had initially been recruited through the Employment Exchange.

4. The learned counsel for the petitioner Shri A.K. Behera submitted that the intent of the OM dated 9.11.1990, which regulates regularisation of ad hoc employees even by granting relaxation in upper age limit is to give an opportunity to ad hoc employees to get themselves regularised by qualifying in the SSC Examination. The relevant portion of the said OM reads as under:-

"The undersigned is directed to say that in a number of Ministries/Departments, persons recruited through the Employment Exchange have been appointed as Stenographers Grade D on adhoc basis pending nomination of candidates by the Staff Selection Commission. The question of regularisation of such adhoc appointees in the posts of stenographers Grade D after holding a Special Qualifying Examination was raised by the Staff Side in the Departmental Council (JCM) of this

22

Department. It has been decided after careful consideration that while no Special Qualifying Examination can be considered for this purpose, the adhoc Stenographers Grade D could be allowed to compete in the Open Competitive Examination held by the Staff Selection Commission for recruitment of Stenographers Grade D for which suitable relaxation in age limit could be permitted as a one time measure. Accordingly, all those who are working as Stenographers Grade D on adhoc basis in Ministries/Departments including attached and subordinate offices, pending nomination of regular candidates by the Staff Selection Commission, may be allowed relaxation of upper age limit, equal to the period of their adhoc officiation, for the purpose of appearing in the next Open Competitive Examination for recruitment of Stenographers Grade D to be conducted by the Staff Selection Commission in 1991. This concession is being allowed only as a one time measure and will apply only to such adhoc Stenographers Grade D who have been recruited through the Employment Exchange and were within the age limit for competing in the Stenographers Grade 'D' Examination at the time of their appointment and have been working in offices in which the posts of Stenographers Gr.D are filled through the Staff Selection Commission, for a period of one year as on 1.6.90."

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It will be apparent from the above extract of the OM dated 9.11.1990 that the respondents never visualised that there would be any Grade D Stenographers who have been recruited as ad hoc employees through open competition, even though they have not been sponsored by the Employment Exchange. In the case of the petitioner no relaxation in age limit is required, but, none-the-less she is an ad hoc Stenographer Grade 'D' and that she is perhaps better placed than those Stenographers who have to be granted age relaxation. Another important factor in this case is that the employing department invited applications through advertisement published in the Employment News on 8.10.1988 and did not lay down any condition that the candidates are required to be registered with the Employment Exchange or would require to be sponsored by the Employment Exchange. In fact, these appointments were made purely on ad hoc basis and for a period up to March, 1990 or when the Technology Mission on Oil Seeds is terminated, whichever is earlier. In the present case, therefore, the question of recruitment at the initial stage through the Employment Exchange did not arise, as selection and appointments were made through an open competitive examination and their services were to be terminated in March, 1990. The Technology Mission, however, is still continuing. This material change affected the situation. In that view of the matter the ad hoc candidate who came through this selection process cannot be subjected to the rigours of the OM dated 9.11.1990. The said OM, in our opinion, has also no application in the case before us. The OM dated 9.11.1990 allows only the age concession to those candidates who have been recruited through the Employment Exchange for competing in the Stenographers

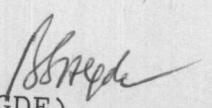
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2

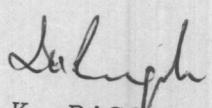
12

Grade 'D' Examination. In our opinion this OM cannot be utilised to debar the petitioner who was also an adhoc employee for appearing in the SSC examination to seek regularisation on par with other ad hoc employees recruited through the Employment Exchange. The case of the petitioner has to be treated as a pure and simple case of an ad hoc employee who is seeking regularisation through the qualifying examination held for Grade 'D' Stenographers. She is within the age limit and does not require the age relaxation which is permissible in the case of those who are recruited through the Employment Exchange but are over age for entry in the Government service. The question of her being recruited through the Employment Exchange does not arise, as she was recruited through a competitive examination where no such condition was prescribed. In the above circumstances and in absence of any material the petitioner is held to be entitled to be treated in the same manner as other ad hoc employees who were recruited through the Employment Exchange and were working on ad hoc basis. Therefore, she will be at par with all ad hoc Grade 'D' Stenographers who appeared in the Grade 'D' Stenographers Examination, 1991 and shall be entitled to be assessed as such. Ordered accordingly. No costs.

5. The respondents are directed to implement the above orders with utmost expedition and preferably within a period of two months from the date of communication of this order.

  
(B.S. HEGDE)  
MEMBER(J)

San.

  
(I.K. RASGOTRA)  
MEMBER(A)