

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.**

ORIGINAL APPLICATION NO.1360 OF 1998.

ALLAHABAD THIS THE ¹⁵.....DAY OF September 2006.

**HON'BLE MR. JUSTICE KHEM KARAN, V.C.
HON'BLE MR. P.K. CHATTERJI, A.M**

1. Anil Kumar Sharma son of Sri Giri Raj Sharma, Resident of SE282, Shastri Nagar, Ghaziabad.
2. Manoj Kumar son of late Murari Lal, resident of Income Tax Colony, Bulendshahar.
3. Chatar Singh Pal son of Shri Nihal Singh, Resident of Income Tax Colony, Hapur.

.....Applicants.

(By Advocates: Sri B.N Singh, R.S. Yadav, Anjani Kumar)

Versus.

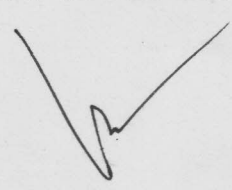
1. Central Board of Direct Taxes, North Block New Delhi through its Chairman.
2. Chief Commissioner of Income Tax Aayakar Bhawan, Civil Lines, Kanpur.
3. Commissioner of Income Tax, Aayakar Bhawan, Meerut.
4. Commissioner of Income Tax, Aayakar Bhawan, Agra.
5. Commissioner of Income Tax, Aayakar Bhawan, Kanpur.

.....Respondents.

(By Advocate: Sri A. Mohiley)

CONNECTED WITH

ORIGINAL APPLICATION NO. 140 of 1999.

1. Inderjeet Sachdewa W/o Sri Asjok Sethi, posted as Stenogrpaher Grade III in the office of Income Tax, Meerut.
 2. Ranjit Kumar Gautam a/a 42 years, son of Sri Nandram Gautam, Posted as Stenographer Grade III in the office of Income Tax, Muzaffarnagar.
 3. Mohd. Yunus a/a 39 years son of Mohd. Haneef, presently posted as Stenographer Grade-III, in the office of Income Tax, Meerut.
 4. Smt. Durgesh Nandani a/a 39 years, w/o Sri Ashwani Kumar Mehta, posted as Stenographer Grade III in the office of Income Tax, Meerut.
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5. Mahesh Chandra a/a 37 years son of Sri Shiv Ratan Lal posted as Stenographer Grade III in the office of Income Tax, Meerut.
6. Ravindra Singh Thapa a/a 39 years son of Sri Hira Singh, posted as Stenographer Grade III in the office of Income Tax, Dehradun.

.....Applicants.

(By Advocate: Sri Sudhir Agrawal)

Versus.

1. Union of India, through the Secretary Ministry of Finance, North Block, New Delhi.
2. The Central Board of Direct Taxes, North Block, New Delhi through its Chairman.
3. The Chief Commissioner of Income Tax, Kanpur.
4. The Commissioner of Income Tax, Meerut.

.....Respondents

(By Advocate: Sri Ashok Mohiley)

CONNECTED WITH

ORIGINAL APPLICATION NO. 297 OF 2000

1. Smt. Anita Vinayak, W/o Sri Sanjay Vinayak R/o House NO. 38/21, Block No.4, Govind Nagar Kanpur Nagar.
2. Rajendra Kumar Pandey, S/o late Sone Lal Pandey, R/o House NO. 16/7, Pili Colony, Near Nuhi Bus Depot, Kanpur Nagar.
3. Daya Nand S/o late Bhagumal, r/o House NO.126/655, W-1, Sakat Nagar, Kanpur.
4. Vishnua Prasad Pandey, S/o Sri Bhagwan Prasad Pandey, R/o Gopi Nath Puram Near, Saraswati Shishu Mandir, Shukla Ganj, District Unnao.
5. S.K. Singh s/o late Ranjit Singh, R/o 61/III, Kendranchal Colony, Gujaini, Kanpur Nagar.

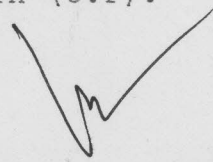
.....Applicants

(By Advocate: Sri B.N. Singh)

Versus.

1. Union of India through Chairman, Central Board of Direct Taxes, Government of India, Ministry of Finance, New Delhi.
2. The Chief Commissioner of Income Tax, 16/69, Aayakar Bhawan, Civil Lines, Kanpur.



3. Sri Rakesh Kumar Tank, Stenographer-II C/o O/o Commissioner of Income Tax, Aligarh, U.P.
 4. Sri Anil Kumar Dehgal, Inspector Income Tax, C/o Commissioner of Income Tax, Meerut (U.P).
 5. Sri Surendra Prasad Bahuguna, Stenographer-II, C/o Office of Commissioner of Income Tax, Muzaffarnagar.
 6. Sri Rakesh Kumar Shukla, C/o Commissioner of Income Tax (Central) Tilak Nagar, Kanpur.
 7. Smt. Shashi Prabha Saxena, Inspector of Income Tax, C/o Chief Commissioner of Income Tax, Dehradun (Uttaranchal).
 8. Sri Bhuwan Prasad, Inspector Income Tax, Meerut (U.P)
 9. Sri Kamlesh Kumar Trivedi, Stenographer Grade-II, C/o Commissioner Income Tax, Kanpur.
 10. Jaya Gopal Inspector of Income Tax, Meerut, U.P
 11. Sri Girish Chandra Pant, Inspector of Income Tax,.
 12. Sri Dinesh Chandra Verma, Inspector of Income Tax, C/o Office of the Commissioner of Income Tax, Agra (U.P).
 13. Sri Devendra Kumar, Inspector of Income Tax, C/o Commissioner of Income Tax, Meerut.
 14. Sri Gulshan Kumar Mawkin, Stenographer Grade-I, C/o Commissioner of Income Tax, Meerut (U.P).
 15. Smt. Sunita Mawkin, Stenographer Grade-I, C/o Chief Commissioner of Income Tax, Dehradun.
 16. Prem Arora, Inspector of Income Tax, Meerut (U.P).
 17. Smt. Kumkum Karki, Income Tax Inspector, C/o Commissioner of Income Tax, Meerut.
 18. Sri Gulshan Kumar, Income Tax Inspector, C/o Commissioner of Income Tax, Meerut (U.P).
 19. Sri Rajesh Kumar, Inspector of Income Tax, C/o Commissioner of Income Tax, Meerut (U.P).
 20. Sri Kamta Prasad Tripathi, Stenographer Grade-I, C/o Commissioner of Income Tax, Agra (U.P).
 21. Sri Dik Mittal, Inspector of Income Tax, C/o Commissioner of Income Tax, Meerut.
 22. Sri Kailash Kumar, Inspector Grade-I, C/o Commissioner of Income Tax, Kanpur (U.P).
 23. Sri Nadeem Ahmad Siddiqui, Stenographer Grade_I, C/o Commissioner of Income Tax, Aligarh (U.P).
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24. Sri Ramesh Chandra Nainwal, Income Tax Inspector, C/o Commissioner of Income Tax, Meerut U.P.
25. Sri Satish Mittal, Inspector of Income Tax, Meerut (U.P).
26. Sri Manju Mittal, Stenographer Grade-II, C/o Commissioner of Income Tax, Meerut (U.P).
27. Sri Ramesh Chandra Verma, Stenographer Grade-I, C/o Commissioner of Income Tax, Agra (U.P).
28. Savita Parrasi, Stenographer Grade-I, C/o Chief Commissioner of Income Tax, Dehradun (Uttranchal).
29. Sri Mukesh Tandon, Income Tax Inspector, C/o Commissioner of Income Tax, Agra (U.P)
30. Sri Verendra Kumar Jain, Inspector of Income Tax, C/o Commissioner of Income Tax, Meerut. U.P.
31. Sri Atabal Singh Yadav, Inspector Grade-II, C/o Commissioner of Income Tax, Kanpur (U.P).
32. Sri Vipin Chandra Sharma, Stenographer Grade-II, C/o Chief Commissioner of Income Tax, Dehradun (Uttranchal).
33. Sri Arun Kumar Sharma, Inspector of Income Tax, C/o Commissioner of Income Tax, Meerut (U.P).
34. Sri Satish Kumar Ahuja, Inspector Grade-II, C/o Chief Commissioner of Income Tax, Dehradun (Uttranchal).

.....Respondents

(By Advocates: Sri K.C. Sinha/Sri A. Mohiley)

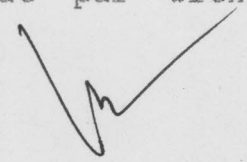
O R D E R

By HON'BLE MR. JUSTICE KHEM KARAN, V.C.

These three O.As under section 19 of Central Administrative Tribunal Act, 1985, are by-product of adhocism prevailing in the Department of Income Tax and indifferentism on the part of certain officials of the Department towards observance of relevant Rules, that regulate the induction of the persons in Govt. service. These 14 applicants (three in O.A. No.1360 of 1998, six in O.A. 140/99 and five in O.A. NO.197/2000) were admittedly

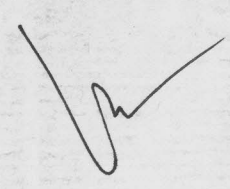
appointed as per Rules as Stenographer Grade III, in the department of Income Tax on different dates in between 1.10.1980 to 14.12.1988. In due course, they alongwith others were also promoted to Grade 2 in terms of orders dated 17.10.1995. They worked as Stenographers Grade II, till the orders impugned in these O.A's were passed. It appears that acting on letter dated 22.9.1998 (A-3A in O.A. NO.1360/1998) issued by Central Board of Direct Taxes (hereinafter referred to as the Board), Chief Commissioner of Income Tax, Kanpur passed one order dated 13.10.1998 (A-2 in O.A. of 2000) providing therein that all the 32 Stenographers mentioned therein (they are respondent Nos.3 to 34 in O.A. of 2000) shall be treated at par with regular employees from the dates of appointment mentioned against each one of them and thereafter passed another order dated 15.10.1998 (A-1 in O.A. of 1998), reverting the applicants and 8 others from the post of Stenographer Grade II to the post of Stenographer Grade III. In the same sequence vide his order dated 16.10.1998 (A-2 in O.A. of 1998), the Income Tax Commissioner Meerut Region posted 11 such persons as reverted in Grade III. Vide order dated 16.10.1998 (A-3 in O.A. of 1998) 15 Stenographers working in Grade III (including some of the respondents No.3 to 34 of O.A. of 2000) were promoted to Grade II w.e.f. 27.10.1995.

2. These applicants are challenging the legality and propriety of Board's decision dated 22.9.98 directing that Adhoc Stenographers shall be treated at par with the



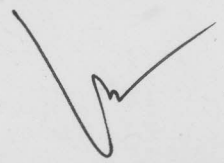
regular employees from the date of their initial appointment, order dated 15.10.1998 (A-1 in O.A. of 1998) by which C.C.I.T Kanpur reverted these applicants from the grade II to grade III, consequential order dated 16.10.1998 (A-2 in O.A. of 1998) by which the Commissioner of Income Tax Meerut Division posted 11 persons including some of the applicants in grade III on the basis of order dated 15.10.1998 of C.C.I.T Kanpur, order dated 16.10.1998 (A-3 in O.A. of 1998) by which 15 Stenographers grade III were promoted to Grade II w.e.f. 27.10.1995 on the basis of order dated 15.10.1998 of C.C.I.T and order dated 13.10.1998 (A-2 in O.A. of 2000) by which C.C.I.T Kanpur, acting on Boards letter dated 22.9.1998 treated the adhoc Stenographers mentioned therein (including respondent Nos. 3 to 34 in O.A. of 2000) at par with other regular employees from the date of their initial appointments as mentioned against their names. They have also prayed that adhoc Stenographers (respondents No.3 to 34) should not be assigned any seniority Vis-à-vis them and in any case over and above the applicants. Prayer has also been made, that the respondents be directed to re-fund the entire salary, if deducted pursuant to the impugned orders.

3. As the factual position emerging from the pleadings of the parties is more or less undisputed so we would like to give only a summary of it, before we proceed to consider the issues involved in these three O.As.



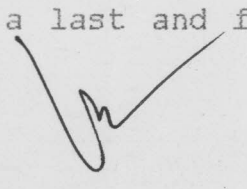
4. There is no dispute that the post of Stenographers Ordinary Grade in the Department of Income Tax, being the posts in Group 'C', appointments thereto in the year 1978-79 were to be made through Staff Selection Commission (hereinafter referred to as the Commission). In Kanpur and Lucknow Region of the Department, there was felt acute shortage of such Stenographers in late 1970's. On being approached, the Commission expressed its inability (see order dated 19.4.1978 annexed as CA-2 in OA of 2000) to undertake the task of selecting candidates for such appointment, so it advised for making selection on an adhoc basis. In the circumstances, the Board permitted vide its letter dated 29.6.1978 (CA-4 in O.A. of 2000) to make appointments on an adhoc basis by making recruitment on local basis. It appears applications were invited or names were called for from Employment Exchanges and on receipt of the names, a Written Test (in General Knowledge, Math, English, Shorthand Typing Test) was held, followed by Viva-voce (CA-5 in O.A. of 2000). Thereafter these persons (respondents NO.3 to 34 in O.A. of 2000) were appointed on an adhoc basis on the post of Stenographer Ordinary Grade on different dates in 1978-1979. A perusal of some of the appointment letters (CA-5 in O.A. of 2000) reveal that one of the conditions of this appointment was:

"Their appointment is being made purely on adhoc basis and appointment is liable to be terminated on the availability of the candidate from Staff Selection Commission, New Delhi".

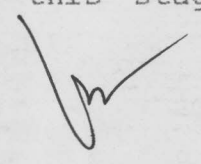


We have no reason to doubt that appointment letters issued in favour of other such persons, contained like conditions. It transpires from perusal of para 10 of reply of Private respondents in O.A. of 2000 and from order dated 6.7.1979 written by Commissioner of Income Tax, Lucknow to the Board and Board's letter dated 18.8.1979 that attempt was made to get some other adhoc Stenographers regularized. On being approached the Commission vide its letter dated 25.9.1979 communicated its decision to regularize services of certain Stenographers. A perusal of this letter (CA-7 in O.A. of 2000) reveals that the names of respondents NO.3 to 34 do not find place in the list of Stenographers mentioned in Commission's letter dated 25.9.1979. Perhaps they were some other Stenographers.

5. It is stated in letter dated 20.12.1993 (CA-13 in O.A. of 2000) written by C.C.I.T. Kanpur to the Board that all 34 adhoc Stenographers excepting one, were confirmed by different orders passed on 11.6.1982, 17.6.1984 and 18.6.1984 without any reference to the relevant Rules under which these confirmation orders were passed. It is not in dispute that the Commission organized special qualifying test for regularizing adhoc Stenographers and other officials but none of the respondents NO.3 to 34 appeared in those qualifying tests. Letter dated 1.9.1993 (A-16 in O.A. of 2000) from Ministry of Finance to all C.C.I.Ts and others spoke in no uncertain terms that the Department of Personnel and Training agreed to provide a last and final

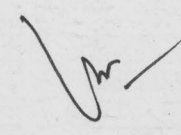


chance to all adhoc/daily rated/casual LDC's and Stenographers Grade III to appear in special qualifying examination to be held by Commission on 26.12.1993 and those who do not avail of this opportunity or, who fail to clear the examination their services will be terminated. It appears that these Stenographers as respondent NO.3 to 34 in O.A. of 2000 did not avail of this opportunity, perhaps because of the fact that they had been confirmed vide orders dated 11.6.1982, 17.6.1984 and 18.6.1984. It would be pertinent to refer to letter dated 6.4.93 (A-15 in O.A. of 2000) addressed to all C.C.I.Ts which says that services of those adhoc Stenographers who have cleared special qualifying examination conducted by the Commission, shall be reckoned from the date of qualifying such examination and not from the date of appointment. It is stated in the reply filed by the respondents in O.A. of 2000, in gradation list prepared earlier to 1.1.1995 names of these adhoc Stenographers figured. In gradation list dated 1.1.1995 though their names figured but separately to the regular Stenographers. It has come in the pleadings that some of these adhoc Stenographers were promoted to one posts or the other in due course of time. A combined reading of letter dated 26.12.1986 (CA-14 in O.A. of 2000), letter dated 20.5.1988 (CA-15 in O.A. of 2000) and letter dated 20.12.1993 (CA-16 in O.A. of 2000) reveals that the Cadre Controlling Authority requested the Board to re-consider/re-examine the status of these Adhoc Stenographers as they have been conferred the status of confirmed employees and as reversal of position at this stage may



apart from being not proper, also involve the Department in the legal battle. The Authority clearly mentioned in para 3 of the office letter dated 20.12.1993 that confirmation of adhoc Stenographers was erroneous. It appears that Board, after considering the matter issued letter dated 22.9.98 conveying its decision that these adhoc Stenographers should be treated at par with other regular employees with effect from the date of their appointments and so consequential orders were passed.

6. It would be useful to refer to two decisions, rendered by two Benches of this Tribunal in the matter relating to one or other such adhoc Stenographers. One Ramesh Chandra filed an O.A. before the Principal Bench at New Delhi, claiming promotion to the next higher grade. He stated that though he was initially appointed on an Adhoc basis but was subsequently confirmed vide order dated 11.6.1982 and so the next promotion could not be denied to him. It transpires from the copy of the decision dated 8.12.1990, that the respondents therein did not appear nor filed any reply. The Tribunal directed for considering the applicants for promotion. One Smt. Shashi Prabha also an adhoc Stenographer filed O.A. NO.74 of 1990, Smt. Shashi Prabha Vs. Union of India and others in Lucknow Bench of this Tribunal, seeking her promotion to the post of Income Tax Inspector w.e.f 13.5.1988 and restoration of her seniority in the cadre of Stenographers. The O.A. was contested by the official respondents by saying that since her initial appointment was purely on an adhoc basis and



not through the Commission, so it remained adhoc as she did not appear in special qualifying examination conducted by the Commission in the year 1987, 1991 and 1993. The Bench disposed of the O.A. vide its order dated 10.12.1996. Copy of which is Annexure RA-1. It would be useful to reproduce paras 9 and 11 of this decision dated 10.11.1996 and the same are as under:-

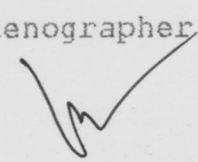
- "9. From what is stated above, the applicant has proved her suitability for promotion to the post of Income Tax Inspector. The confirmation of the applicant which was de hors rules does not confer any right on the applicant to hold the post or right for further promotion. The Hon'ble Supreme Court also in 'State of Punjab V/s Jagdeep Singh' reported (1964) SC 7521, and cases decided by this Bench of the Tribunal relied upon by the learned counsel for the respondents have held that where a Govt. Servant has no right to the post, or to a particular status, though an authority under the Govt. acting beyond its competence had purported to give that person a status which it was not entitled to give that person a status which it was not entitled to give will not in law be deemed to have been validly appointed to the post, or give a particular status. However, the fact remains that the respondents themselves are responsible for creating to believe that she was a regular employee and was entitled to confirmation as also further advancement in her career in the normal course. The decision relied upon by the applicant in O.A. NO.30/89 rendered by the Principal Bench on 18.12.1990 has been perused by us. We find that the same has no application to the facts of the present case.
10. In the circumstances of the case, we are of the considered view that the respondents be directed and we direct them to refer the applicant to the Staff Selection Commission for a Special Examination for regularization of the services of the applicant as Stenographer in the lower grade and in the event, she qualifies in the said examination, her services shall stand regularized and promotion as Income Tax Inspector be given to her, if she is found to be suitable for such a promotion by the D.P.C. and in the event she is found otherwise eligible for promotion, she should be given seniority from due date. In case she does not appear at the selection or she appears and fails to qualify, she will continue

to be adhoc appointee without any right for regularization".

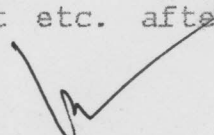
7. In other words, Lucknow Bench of this Tribunal was of the view that confirmation order dated 11.6.1982 was dehors the Rules and so status of the applicant continued as that of adhoc employee and unless she cleared special qualifying examination conducted by the Commission for regularizing the adhoc services, she could not claim the benefit of a regular employee. There is nothing on record to reveal that the decision dated 10.12.1991 of Lucknow Bench of the Tribunal was challenged in higher forum or was reviewed by the Tribunal itself. Letter dated 20.12.1993 (CA-16 in O.A. of 2000) also refers to writ petition No.1011 of 1989 filed by the Federation before the Apex Court. It says that 20 adhoc Stenographers were included in the array of petitioners but on separate application No.1 of 1992, the Hon'ble Supreme Court deleted their names from the array of petitioners. Thus, according to this letter, none of adhoc Stenographers is now petitioners in that Civil Writ Petition No.1011 of 1989 pending before the Apex Court. The record does not reveal that the said writ petition of 1989 has been decided by the Apex Court and so it can be said that the same is pending.

8. We have heard the parties counsel.

9. Learned counsels for the applicants have submitted that they remains no doubt that the respondents No. 3 to 34 in O.A. of 2000 were initially appointed as Stenographer




Ordinary Grade, purely on an adhoc basis and their services were to be terminated on availability of regularly selected candidates. They have drawn attention of the Tribunal towards copies of the letter of appointments of Devendra Kumar Verma, Km. Sarika Farassi, Girish Chandra Pant and Rajesh Kumar issued on 9.11.1978, 3.9.1979, 9.11.1978 and 6.11.1978 respectfully (CA-5 in O.A. of 2000) and also to CA-3 dated 5.5.1978 and C.A-4 dated 19.6.1978 (in O.A of 2000) so as to support their contention. It is amply clear from letter dated 29.6.1978 (CA-4) that the Board consented to the filling of the vacancies of Stenographers Ordinary Grade, on an adhoc basis only. There was a clear stipulation in the appointment letter that the appointment was purely on an adhoc basis liable to be terminated on the availability of the candidates from the staff Selection Commission. The learned counsel for the respondents has tried his best to persuade us, by referring to certain facts, that appointments of respondents NO.3 to 34 in O.A. of 2000, was akin to the regular appointment so it is difficult to say that the same was purely adhoc. They say that relevant Recruitment Rules namely the Income Tax Department, Ministerial Staff (Stenographers) Recruitment Rules 1989 came into force much after the appointment of respondents No. 3 to 34, (in O.A. of 2000) there were no statutory Rules to regulate the recruitment of these Stenographers and the same was dealt with by the Executive Instruction, issued from time to time. Sri Mohiley says that if in exigency of service selection was made by holding written test, viva voce and type test etc. after

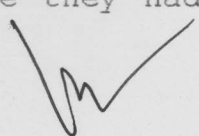


inviting the names of suitable candidates from local Employment Exchange etc., it was almost a regular selection and so there was nothing wrong if the Board directed that they be treated at par with regular employees. The respondents No.3 to 34 have also tried to say that for all legal and practical purposes, their appointment on the post of Stenographer Ordinary Grade was regular one. They say that the Commission was not functioning properly and had some difficulty in making the selection and so it agreed to the induction of Stenographer on local basis. The sum and substance of the contention of respondents including that of private respondents, is that but for the recommendation of Commission, the appointment of respondents NO.3 to 34 in Q.A. of 2000 was regular one and after they have continued for more than 2 and half decade or so and after some of them have also been promoted to the next grade or next post, it is not just and proper to treat them adhoc.

10. We are sorry to observe that the Department has not been consistent in its stand on the point, whether the appointment of all these Stenographers on the post of Stenographer Ordinary Grade was adhoc or regular. A perusal of paras 9 and 11 of the decision dated 10.12.1996 delivered by Lucknow Bench of this Tribunal in O.A. 74/90 Smt. Shashi Prabha Vs. Union of India and others reveals that there the stand of the Department was that appointment of Smt. Shashi Prabha was purely an adhoc one. We have already stated that said decision has become final as it was not taken in writ or in appeal. We fail to understand

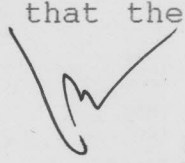


as to how the Department can take a different stand in the present O.As. and say that the appointment of respondents No.3 to 34 in O.A of 2000 was regular one. In absence of statutory Rules, the subject of recruitment on the post of Stenographer Grade III was regulated by Executive Instructions. There is no dispute that on the date, these persons were selected and inducted, the recruitment was to be made in consultation with the Commission. We have not been able to persuade us to accept that the selection and appointment of respondents 3 to 34 in O.A. of 2000 on the post of Stenographer Grade 3, was in accordance with relevant Rules or relevant Executive Instructions. Any appointment made without consulting the commission must be characterised as adhoc. When the official respondents themselves provided in the respective appointment letters issued in favour of respondents NO. 3 to 34 that the appointments were purely adhoc and were terminable on availability of duly selected candidates, then how they can say now that the appointments of respondents NO. 3 to 34 were regular one. It is never the case that Commission was not to be consulted before making the appointment in 1978, 1979 and 1980. We are of the view that since the appointments of respondents No. 3 to 34 on the post of Stenographer Grade III was not made in consultation with the Commission so it was adhoc one. Even the respondents NO. 3 to 34 in O.A. of 2000 who submitted their representations in 90s for treating them regular or for regularizing them admitted that their initial appointments were adhoc one, but tried to say that since they had been



confirmed subsequently so they be treated regular. It was on the basis of these representations that the Cadre Controlling Authority wrote various letters to the Board and the Board, after examining the entire aspects, issued letter dated 22.9.98, which is being impugned in these O.As.

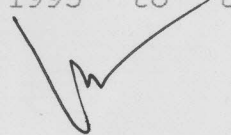
11. The next question that arises for consideration is as to whether the respondents NO. 3 to 34 in O.A. of 2000 were rightly confirmed vide order dated 11.6.1982 (CA-12), 17.6.1984 (CA-2) and 18.6.1984 as referred to in one of the letters of Cadre Controlling Authority addressed to the Board. Sri Mohiley has not been able to refer to any statutory Rules that provides for confirmation of adhoc Government servant. In other words, no Rule or regulation was there to provide that adhoc employees could be confirmed in their appointment. None of the respondents in either of 3 O.As has referred to any such statutory Rules. We may we justified in referring to the decision dated 10.11.1996 if Lucknow Bench of this Tribunal in Shashi Prabha's case where it was said in so many words that confirmation dated 11.6.1982 was de hors the Rules and so conferred no right on an adhoc appointee. The Hon'ble Members deciding that cases were perfectly right in saying so. We find no reason to take different view. Though the respondents NO. 3 to 34 in O.A. of 2000 have tried to take assistance from decision dated 8.12.1990 of the Principal Bench in Ramesh Chandra's case but we are of the view that the same does not help them for the reason that the same



was ex-parte and was distinguished on facts by Hon'ble Members giving decision dated 10.12.1996 in Shashi Prabha's case. No other decision could be brought to our notice to help the respondents No. 3 to 34 in O.A. of 2000. We have already stated that correctness of confirmation dated 11.6.1982 and subsequent orders passed in respect of others, was doubted even by Cadre Controlling Authority in para 3 of his letter dated 20.12.1993 (CA-16 in O.A. of 2000). Undoubtedly orders of confirmation of these adhoc Stenographers were dehors the rules and therefore, the same were of no legal consequence.

12. Learned counsel for the respondents has vehemently argued that since these adhoc Stenographers were always shown senior to the applicants in the gradation list earlier to 1995 and since some of them had also been given promotion to one post or to another grade, so the applicants cant not be permitted to agitate the matter, after lapse of more than 12 years and they should be stopped from challenging the position of respondents NO. 3 to 34 in O.A. of 2000. They have filed (in O.A of 1998) extract from the book of P. Muttuswamy "seniority and promotion page 169 to support this plea.

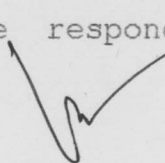
13. We have considered this argument but we are unable to accept the same. The department itself issued a gradation list on 1.1.1995 showing the applicants separate to the respondents No. 3 to 34 in O.A. of 2000. Department itself gave promotions to the applicants in 1995 to the



Stenographer Grade II, in preference to respondents NO. 3 to 34 in O.A of 2000 and so how it can be said that the respondents NO. 3 to 34 in O.A of 2000 were being regularly shown as senior to the applicants or how it can be said that the applicants were sleeping over the matter for all these years. The O.As can not be rejected on the said ground.

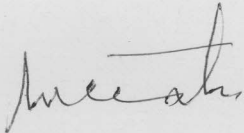
14. We are not deciding as to whether these respondents NO. 3 to 34 in O.A. of 2000 may or may not continue in service, that is not the subject matter of these OAs. The questions for our decision are as to whether the respondents were justified in treating the respondents NO. 3 to 34 (in O.A. of 2000) as regular from the dates of their initial appointments and as to whether consequential orders including that of reversion were justified. We have found that the Board's decision to treat these persons at par with the regular employees from the dates of their initial appointment was not legally justified and so subsequent reversion orders were also not justified in law. Respondents NO.3 to 34 cannot be treated to be senior to the applicants. It is for the Department to tackle the problem in the way it may be permissible in law but we are very sorry to say that we are not in a position to help the department.

15. We, therefore, dispose of all these O.As and quash the decision dated 22.9.1998 of the Board, consequential order dated 13.10.1998 and orders issued by the respondents

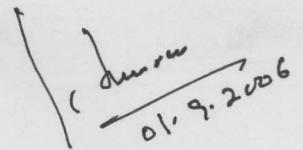


reverting the applicants from the post of Stenographer grade II to Stenographer grade III. We direct that the respondents NO. 3 to 34 in O.A. of 2000 will not be shown senior to the applicants in the gradation list. Applicants shall be entitled to all consequential benefits. We do not touch the promotion order dated 15.10.1998 passed in favour of some of the respondents 3 to 34 of O.A. of 2000.

No order as to costs.



Member-A


01.9.2006

Vice-Chairman.

Manish/-