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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.226 of 1987.

U.C. Sinha ..... Applicant

Versus

Union of India & Others ..... Respondents.

Hon.S.Zaheer Hasan, V.C.

Hon. Ajay Johri, A.M.

(By Hon.Ajay Johri, A.M.)

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This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985. The application has been made against an order dated 8.4.1986 passed by the Regional Assistant Director National Sample Survey, Lucknow by which a fresh appointment has been given to the applicant as Lower Division Clerk (LDC) instead of confirming and regularising his service on the post of stenographer which was in a higher pay scale and on which he was working since 22.1.1980.

2. The applicant's case is that he was selected by a Departmental Board out of candidates sponsored by the Employment Exchange in 1979 as a stenographer grade III and was posted at Ranchi on 22.1.1980. His appointment was on adhoc basis with the specific condition that it will be terminated when duly selected candidates sponsored by the Staff Selection Commission would be available. Upto 1986 no



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candidate was sponsored by the Staff Selection Commission but the applicant has been removed from the post of stenographer and has been offered the post of a clerk. According to the applicant he had worked satisfactorily for the last six years. He is proficient and his typing speed is to the entire satisfaction of the respondents. He was even recommended by the Deputy Director for regular appointment as a stenographer on 10.7.1981. According to him there were two other candidates who were also appointed alongwith him. One of them appeared in the test for regularization conducted by the Staff Selection Commission in August, 1978, but she could not qualify. Even her case was recommended by the Deputy Director for regularization. The said candidate has been confirmed and regularised by an order dated 28.12.79. Similarly another candidate who also failed has also been regularised by another letter of 27.11.1980. On the recommendations made by the Department the applicant was asked to appear in the stenographer's examination held by the Staff Selection Commission on 17.3.1981 and the applicant qualified in the said examination. The applicant further claims that he qualified in the Efficiency Bar test conducted by the Departmental Promotion Committee as a Stenographer and he was recommended to be promoted to the higher grade. He was also being paid special pay for extra work that he was doing. He made representations for



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being absorbed as a regular stenographer. Even as late as 31.1.1985 specific recommendations were made for regularization of the applicant as a stenographer. The Department instead of considering his representation spared him to join duty as a L.D.C. on 31.12.86. He was even threatened that if he did not join as a clerk his services as a stenographer will be terminated so the applicant joined his duties as a L.D.C. By this application he has prayed for setting aside of the order dated 8.4.1986 and declaring the applicant's services to be confirmed and regularized as stenographer and for payment of full pay from January, 1987.

3/ 3. The respondents have opposed this application and have said that in between 1982 and 1984 a number of stenographers grade III were recommended by the Staff Selection Commission but they did not turn up and one or two who reported resigned. The two lady candidates whose cases have been referred by the applicant were appointed on adhoc basis prior to the applicant. The respondents have said that they are not able to confirm that these two lady candidates failed in the examination conducted by the Staff Selection Commission but these candidates were regularized in 1980-1981 with reference to a letter received from Staff Selection Commission dated 28.12.79. The adhoc services of these two ladies were regularised by the Staff Selection Commission. No threat was given to the applicant. He was communicated the



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decision to offer him the post of L.D.C.

4. We have heard the learned counsel for both sides. The main contentions raised by the learned counsel for the applicant were that the applicant had been working as a stenographer for nearly seven years. He had also passed the examination conducted by the Department and since no eligible candidate has been posted by the Staff Selection Commission he should also be considered for regularization as a stenographer instead of being posted as a L.D.C. entailing a loss in his emoluments.

3/ 5. By the letter of 8.4.86 the applicant was advised that in terms of the Staff Selection Commission's letter dated 23.1.85 he was being regularized as a L.D.C. after the selection held by the Staff Selection Commission for regularization of clerks and stenographers. It is also clear that in the case of other two candidates who have been referred by the applicant the Staff Selection Commission had given its approval for their being regularized as stenographer provided they fulfilled the conditions laid down in the Recruitment Rules. The applicant was also recruited on adhoc basis for appointment as a stenographer and he qualified in the test of stenographer conducted by the Deputy Director, Central Zones, Allahabad. He also ~~also~~ met all the requirements of the Recruitment Rules for the



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post in the Department. According to the correspondence made between the Assistant Director and the Director at New Delhi the applicant was reported to have rendered satisfactory service and had picked up the work quite well and on that basis it was recommended that suitable steps be taken with the Staff Selection Commission to regularise him. There is also a letter dated 5.2.1986 issued by the Staff Selection Commission, Allahabad in connection with an examination for regularization of adhoc L.D.Cs, Telephone Operators and Stenographers saying that the applicant had qualified in stenographers examination held by the Commission. On 11.12.1986 a memorandum was issued appointing the applicant as a L.D.C. as recommended by the Staff Selection Commission. It was in response to this order that the applicant was posted as a L.D.C.

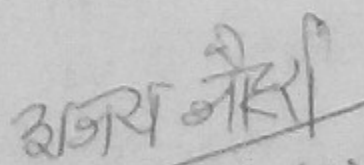
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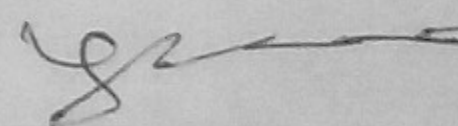
6. It is not the case of the respondents that there is no vacancy of the stenographer against which the applicant could be absorbed. The letter of 5.2.1986 (Annexure-10) clearly indicates that the applicant had qualified in the stenographer's examination held by the Commission in July, 1985. The stenographer's grade is higher than that of a L.D.C. In view of the fact that the applicant who was working for nearly seven years as adhoc stenographer and who was found qualified by the Staff Selection Commission, his posting as a L.D.C. on being



regularised in service visits him with evil consequences. There are no sufficient reasons to indicate or to support the fact of his absorption as a L.D.C. In their reply the respondents have not brought out any specific circumstances why the applicant was not regularised as a stenographer when two of his colleagues who were appointed a little earlier than him were regularised even without being subjected to an examination. They were regularised purely on the basis of the recommendations of the Staff Selection Commission. We therefore do not find any good reason to deny the prayer made by the applicant for regular absorption as a stenographer. We however reject the prayer that he should be considered to have been appointed to the post from January, 1987. He will be considered for absorption as a stenographer with immediate effect and will be liable to be paid the salaries from the ~~date~~ day he takes over.

7. On the above consideration we allow the application in part. We direct that the applicant should be considered for regularization as a stenographer with immediate effect. Parties will bear their own costs.

  
Member (A)

  
Vice Chairman

Dated the 31<sup>st</sup> May, 1988.

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