

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 29th day of September 1995.
Hon'ble Dr. R.K. Saxena, Member-J
Hon'ble Mr. S. Dayal, Member-A
Original Application no. 214 of 1988.

1. Akhilshpati Tripathi, S/o Sri Daya Ram Tripathi
2. Mritunjaya Kumar Srivastava, S/o Sri R.C. Srivastava

Both serving as R.T.P. shorting Assistant, C/o H.R.O.
R.M.S., (G) Division Gorakhpur.

... Applicants.

C/A Sri S. Prakash

Versus

1. Union of India through the Director General of Posts,
Dak Tar Bhawan, Parliament Street, New Delhi.
2. Post Master General, U.P. Circle, Lucknow
3. Senior Superintendent, R.M.S., (G) Division, Gorakhpur.

... Respondents.

C/R Sri N.B. Singh.

Alongwith

Original Application no. 643 of 1988.

1. Kamlesh Kumar, S/o Sri J.R. Kamal, R.T.P C/o M.R.O,
R.M.S. (G) Division, Gorakhpur.
2. Ram Ajor, S/o Siddhu, C/o M.R.O. R.M.S. Office
Kheri.
3. Harish Prasad Pandey, S/o Sri A.P. Pandey, R.T.P. Sorting
Sorting Assistant, C/o R.M.S. Office Basti.
4. Ram Bharos, S/o Sri Yamuna, R.T.P., Sorting Assistant,
R.M.S. Office Gonda.
5. Jai Prakash Chaturvedi, S/o Sri R.L. Chaturvedi,
R.T.P. Sorting Assistant, R.M.S. Office Basti.
6. Amarjit Yadav, S/o Sri R.D. Yadav, R.T.P. Shorting
Assistant, R.M.S. Office, Pilibhit.
7. Ydiay Prasad, S/o Sri Badhu, R.T.P. Shorting Assistant
, R.M.S. Office, Basti.
8. Vishnu Kumar Srivastava, S/o Sri M.P. Srivastava,
R.T.P. Shorting Assistant, R.M.S. Office Sitapur.

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Prakash

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9. Govind Dhar, Dwivedi, S/o Sri V. Dwivedi, R.M.S. Office Gonda.
10. Shiv Murat, S/o Sri S.S. Yadav, A.T.P. Shorting Assistant, R.M.S. Office Ghaziabad.
11. Ram Sarikh Yadav, S/o Sri Ounnar Yadav, ATP Shorting Assistant, R.M.S. Office Ghaziabad.
12. Moti Lal Vishwakarma, S/o Sri Raman Sharma, ATP Shorting Assistant, R.M.S. Office, Azamgarh.
13. Ram Nath Sharma, S/o Sri Raman Sharma, ATP Shorting Assistant, R.M.S. Office Kathgodam, Distt. Nainital.
14. Dewanand Dhar Dwivedi, S/o Sri K.D. Dwivedi, ATP Shorting Assistant, R.M.S. Office Kathgodam, Nainital.
15. Janardan Ram Tripathi, S/o Sri B.R. Tripathi, ATP Shorting Assistant, RMS Office, Basti.
16. Vijai Kumar, S/o Sri Asharfi Lal, ATP Shorting Assistant, R.M.S. Office Gorakhpur.
17. Shrish Prasad Mishra, S/o Sri S.B. Mishra, ATP Shorting Assistant, R.M.S. Office Phlibhit.
18. Ram Anant Singh, S/o Sri V.N. Singh, ATP Shorting Assistant, R.M.S. Office, Ballia.
19. Parmatma Prasad Tripathi, S/o Sri Kateshwar Prasad Tripathi, ATP Shorting Assistant, R.M.S. Office Gonda.
20. Shankar Prasad, S/o Sri Mansru Prasad, ATP Shorting Assistant, Gorakhpur.
21. Arun Kumar Dubey, S/o Sri J.B. Dubey, ATP Shorting Assistant, R.M.S. Office, Basti.
22. Shri Prakash Singh, S/o Sri Sudama Singh, ATP Shorting Assistant, R.M.S. Office, Deoria.
23. Ram Prasad Sharma, S/o Sri K.P. Sharma, ATP Shorting Assistant, RMS Office, Deoria.

... Applicants.

C/A Sri S. Prakash.

Versus

1. Union of India through the Director General of Posts, Dak Tar Bhawan, Parliament Street, New Delhi.
2. Post Master General U.P. Circle, Lucknow.
3. Senior Superintendent, R.M.S. (G) Division Gorakhpur.

... Respondents.

C/R Sri N.B. Singh.

Hon'ble Mr. S. Dayal, Member-A

These are two applications filed by 23 applicants in one case in OA no. 643 of 1988 and two applicants in another case in O.A. no. 214 of 1988 under section 19 of the Administrative Tribunal Act, 1985, initially seeking the following reliefs:-

- i. A direction to the respondents to appoint the applicants who are in reserved trained pool (for short RT.P.) as sorting Assistant from the date of their appointment as candidates in the reserved trained pool.
- ii. An injunction to the respondents from filling up vacancies of sorting Assistants till the present present staff of R.T.P. is absorbed in those vacancies.

2. On 6/7-09-94, the applicants came up with a miscellaneous application for amendment in the reliefs clause which was permitted on 20.12.94 and carried out on 22.12.94. The following reliefs were added:-

- i. In the case of success of the application, grant of pay and allowances at the rates available to regular Sorting Assistants for the period of discharge of duties by the applicants who are the candidates in reserved trained pool (herein after/referred to as R.T.P.)
- ii. Payment of bonus and other financial benefits to the applicants as are being given to other Sorting Assistants.
- ii. Payment of financial compensation in view of denial of leave to the applicants as is available

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to regular sorting Assistants, during the period of discharge of their duties as R.T.P. Sorting Assistants.

iii. Counting of seniority in the cadre of Sorting Assistants from the date of applicants rendered service as RTP Sorting Assistants.

3. The grounds on which the relief has been asked for are that large number of vacancies exist throughout R.M.S Division, Gorakhpur as well as the U.P. Circle. It is claimed that 25 vacancies exist in R.M.S. Division, Gorakhpur itself. They also mentioned that the respondents were going to appoint persons of their choice in violation of Government orders and notification to absorb the candidates in R.T.P. and they should be directed to act strictly in accordance with the said Government orders.

4. The applicants have produced D.G.P. letter no. 60-31/81-SPB-I dated 05.12.86. The subject matter of this letter is shown to be absorption of R.T.P.s of 1983 recruitment. The letter mentions that the addressee was authorised to appoint 1983 R.T.P. candidates w.e.f. 01.01.87 against vacancies arising due to promotion, retirement, resignation, death, removal and deputation. This was made subject to the stipulation that the addressee should ensure before appointing 1983 R.T.P. candidates that no surplus staff remained to be absorbed in any division and that there was no R.T.P. candidates of earlier recruitment to be absorbed. This letter produced as Annexure -I to the O.A. Another letter is produced as Annexure A-II of the O.A. It is letter no. 60-17/87 SPB-I dated 18.05.87. This refers to letter dated 05.12.86

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also and it mentions that 50% of the vacancies were to be filled up from amongst departmental candidates and 50% by direct recruitment according to recruitment rules for Postal Assistants and Shroting Assistants. Some vacancies of the departmental quota remained unfilled and short fall should be made good from the outsider candidates (direct recruits) during the recruitment for the next half year. If, no R.T.P. candidates of 1983 batch was available against outsider candidates, excess R.T.P. candidates of 1983 batch was available against outsider candidates, excess R.T.P. candidates awaiting appointment in other divisions in the circle, should be given option to be appointed in the division on deputation basis till vacancies occur in their home division. The surplus staff ought to be adjusted first against direct recruitment quota and then vacancies could be filled up from amongst R.T.P. candidates. It is also mentioned that if posts which were created upto 01.01.84 but, were not filled up due to imposition of ban on recruitment, existed they could be filled up by appointment of R.T.P. candidates recruited later than 1981 if candidates recruited upto 1981 have been absorbed, Another letter of D.G. Post no. 60/63/87 - SPB I dated 16.12.87 has been placed as annexure III to the O.A. This letter mentions that a commitment made to the staff side for absorption of R.T.Ps within 2 years vide orders of Directorate dated 21.07.87 but, some 7,500 candidates were still awaiting their regularisation. Therefore, it was decided to accommodate some of the R.T.P candidates against vacancies in Lower Division Clerk cadre, against 50% vacancies of the out sider in

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Circle/Administrative offices/Director PLI and S.B.O/I.C.O/C.P.U. However, vacancies already notified to S.S.C. etc. were to be excluded from total vacancies available for direct recruits. If, such vacancies were not substantial the R.T.P. candidates could be asked to give option ~~for~~ absorption for the post in phases. If any candidate was found not willing to be posted at a place other than that of his choice, his name can be removed from the list. These candidates absorbed as L.D.C in Circle/Administrative Offices etc ought to qualify in Typing Test at the requisite speed within a period of one year from the appointment. They would have no claim for reversion back to their parent cadre. The quota of SC/ST/Ex Service-man/Physically handicapped was to be observed in making these appointment. This relaxation was given for a period of 2 years. Another letter dated 12.05.83 issued by Senior Superintendent RMS 'C' Division, Gorakhpur gives the allotment to S.R.O./H.R.O. for giving ^{work} experience to R.T.P. candidates against the vacant post of TS and in leave vacancies etc. They had to attain speed of sorting one thousand letter per hours and their quota was to be fixed on that basis.

5. The respondents in their Counter Reply have mentioned that Reserved Trained Pool Sorting Assistants were recruited for work arising out of absenteeism and increase in work in order to keep overtime allowance expenditure within reasonable limits. There were 27 general category, 7 scheduled caste and 2 scheduled Tribe vacancies which were to be filled up in 1983. Applications were invited for filling up these vacancies and last date

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for receipt of applications was 16.11.82. 750 applications were received out of which 146 were found to be complete and acceptable. The selection committee selected 27 general category, 7 scheduled caste and 2 scheduled tribes candidates on 29.01.83. Out of these six ordinary category 1 Scheduled caste and 1 scheduled Tribes Candidate did not join and other 28 joined. Certain complaints were received against this selection and it was found during enquiry that persons having higher marks were ignored. The selection was cancelled vide letter of Director General of Post and Telegraph dated 18.04.86 and a fresh selection was ordered in which RTPs who were working were to be given a chance for selection and all these applicants which were received in 1982 were to be given a chance, While fresh selection was being processed, the Tribunal passed an interim order in OA 214 of 1988 halting the process. The normal expectation of the respondents was that RTP candidates could be absorbed against the vacancies available in next five years of their recruitment. However, time bond promotion scheme introduced with effect from 30.11.83, 5 % reduction in staff strength and abolition of some sorting selections as a result of re organisation for improving mail services resulted in some of the existing staff members becoming surplus. They had to be sent to other units on deputation for want of vacancies in Gorakhpur Division.

6. The applicants in their rejoinder affidavit have said that the candidates were selected on merits and that there was no infirmity in their selection. They have said that the authorities had no jurisdiction to cancel the selection without giving an opportunity to the applicants. They have claimed that they had worked for

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more than 5 years as RTPs and could not get employment else-where. It is stated that enquiry was ex-parte. They have stated ^{that} the applicants were to be absorbed in vacancies throughout U.P. Circle and have claimed that six RTPs were ~~recently~~ absorbed in Allhabad as well as Lucknow divisions of RMS. It is said that since order dated 18.04.86 and 08.05.86 have not been implemented, the 1983 selection of RTPs has therefore, not been cancelled. They have claimed that they have acquired knowledge and skills required for the job alongwith more than five years of expencies and ~~that~~ respondents wanted to deprive them of their rights and favour candidates of their choice.

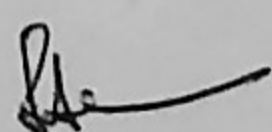
7. The arguements of Sri S. Prakash learned counsel for the applicant and Km. Sadhana Srivastava, standing counsel to the Government of India, appearing as proxy ^{Counsel} for Shri N.B. Singh were heard. We were ~~improved~~ that the applicants were regularised and only amended reliefs remained to be considered. Benefirs were claimed from a date earlier than July, 1993. Bonus and compensation were also claimed and the case of Chaman Lal versus Union of India, in OA no. 868-PB of 1988 was cited in support of the claim.

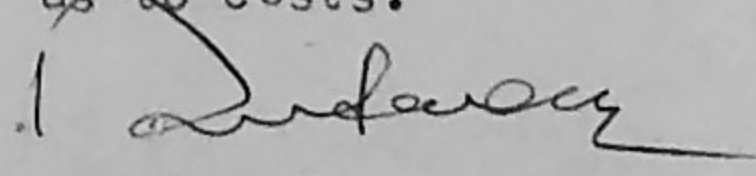
8. *h* Since the applicants are no longer seeking the reliefs for which the application was filed in 1988, their application for those reliefs had become infructuous at the time the applicants were regularised. The date of regularisation of the applicants has not been intimated to us either by the learned counsel for the applicant

or by the learned counsel for the respondent. It is not known whether the regularisation had been done before the application for amendment was moved. In any case the applicants have not helped their cause by merely amending the relief clause without giving necessary facts and grounds for seeking the amendment reliefs. Mere citation of the judgement in O.A. 868 PB of 1988 will not help them as in that case the applicants had specifically asked for these reliefs and the purpose of the entire application was to provide justification for seeking these reliefs.

9. We find that the case cited by the applicants of Chaman Lal and others vs. Union of India and others (Supra) shows that a catena of judgements exists to support the claim of the applicants if they could furnish proper facts. We find that the application have not exhausted the departmental remedy for seeking reliefs sought for in this application by amending the relief clause. We, therefore, allow the applicants to send a representation containing their claim with facts alongwith a copy of this judgement to the respondents for grant of those reliefs and direct the respondents to consider the representation within three months and pass speaking order in case of those reliefs which are not permissible under departmental rules and instructions.

10. There shall be no order as to costs.


Member-A


Member-J

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Composed by
Piyush