

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 21st DAY OF AUGUST, 1996

ORIGINAL APPLICATION No. 1456 of 1993

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. S. DAS GUPTA, MEMBER (A)

Km. ~~Vanmala~~ Wadhwa, daughter of
Sri Y.D. Wadhwa, resident of
30-Dispensary Road, Dehradun

Applicant

BY ADVOCATE SHRI Y.K. SAXENA

Versus

1. The Union of India through the
Secretary Govt. of India,
Ministry of Defence, New Delhi.
2. The Chief of the Army Staff,
Sainik Prashikshan Maha Nideshalaya
Army Headquarters, DHQ, New Delhi
3. Adjutant General,
Adjutant General Branch,
Army Headquarters, DHQ, P.O. New Delh
4. Col. OC Troops
HQ Dehradun Sub Area
5. Col. S.K. Kohli OC Troops
HQ Dehradun Sub Area Dehradun
Cant, Dehradun Cant,

Respondents

BY ADVOCATE SHRI AMIT STHALEKAR

O R D E R (Reserved)

JUSTICE B.C. SAKSENA, V.C.

The short controversy in the present OA is whether the applicant had been selected for appointment as a Stenographer Gr. II or Stenographer Gr. III and whether the letter of appointment issued to her appointing ^{her as} Stenographer Gr. III warranted any correction and ~~She be~~ ^{be} treated to have been appointed as Stenographer grade II. The applicant's representation dated 6.4.92 seeking correction in the appointment letter was rejected by order dated 28.9.92. The applicant has sought quashing of the said

order contained in Annexure A. The applicant has also challenged an order dated 21.11.90 passed by Col. OC Troops, H.Q Dehradun closing the subject in respect of her ~~claim for~~ appointment on the ~~post~~ of Stenographer grade II, copy of which is Annexure B. The applicant has also challenged an order dated 31.3.92 passed by the Adjutant General contained in Annexure C transferring the applicant to IMA Dehradun on permanent duty as Stenographer grade III.

2. The respondents have filed a detailed counter to which the applicant has filed a rejoinder.

3. We have heard the learned counsels for the parties. The learned counsel for the respondents, as per direction contained in an order passed by a Division Bench on 6.12.95, has placed the original file relating to the selection in question for our perusal. From the pleadings on record it appears that OC II H.Q Dehradun Sub Area had authorised one post of Steno grade II as P.A to Sub Area Commander Dehradun. The vacancy was existing since .11.86. The said post carried the pay scale of Rs.1400-2600. The admitted position further is that the requisition sent to the Employment Exchange Dehradun was for the post of Steno grade II. The Employment Exchange sponsored the name of the applicant alongwith other candidates for appointment as Steno grade II. Through the counter affidavit in paragraph 5, it has been averred that "before the vacancy was filled the then Sub Area Commander, Brigadier C.B. Nugyal, ruled that this vacancy will be filled by Steno grade III instead of Steno grade II to maintain interse seniority of other civilian employees at Dehradun Sub Area Head Quarters." The file as produced by the learned counsel for the respondents does not contain the note sheets and therefore it is not possible to verify the said averment.

4. However, from the documents filed alongwith the counter

affidavit on record placed before us it is evident that the call letter dated 21.12.88 issued to the applicant clearly indicated that the Head Quarters proposes to enrol Steno grade III for appointment as P.A. The pay scale indicated in the said letter was Rs.1400-2600 a copy of which is Annexure CA 2. The respondents have also filed minutes of the proceedings of Board of Officers which assembled on 11/12th of January, 1989 for making the selection. The said proceedings are contained in Annexure CA 8. They go to show that the selection was for Steno grade III for PA to Commander Dehradun Sub Area. The proceedings further show that 7 candidates had appeared for typing test including the applicant. The Board of officers noted that:

"The general standard of above candidates who appeared for test was not upto the mark. However, since they are all currently working in some or the other establishment, they have basic knowledge of the job. Keeping in view their performance in the tests given to them by the Board and the interview, the following two candidates emerge as the best amongst those who completed the test:"

One of the two candidates was the applicant. The applicant was approved for appointment to the post of Steno grade III. 5. Consequent to the recommendation of the Selection Board the applicant was offered appointment on the post of Steno grade III in the pay scale of Rs.1200-2040 plus usual allowances admissible to the other government employees. Copy of the offer of appointment dated 24.1.89 is annexed as Annexure A3. The respondents have also filed copy of a certificate given by the applicant indicating her willingness to put her name in common roster for further promotion being maintained by the Head quarter Central

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Command and in this the applicant had indicated her designation as Steno grade III. The certificate is dated 23.6.89.

6. Thus the respondents plead that the applicant well knew that the selection is for the post of Steno grade III. The order of appointment was also for Steno grade III and the applicant also requested her name to be placed in the common seniority list, for further promotion, ~~meant for~~ the post of Steno grade III. The respondents have also filed a representation ^{preferred} in January 1990 as Annexure CA5. Through this letter the applicant sought her upgradation to Steno grade II. She indicated that as per the revised policy a Brigadier's Steno can be of grade II. The applicant therefore requested Brigadier CB Nugyal to have a word with some one in Adjutant's General Branch for considering her appointment as Steno grade II in the same office. The respondents case is that after receipt of the said representation on the request of Sri C.S. Nugyal a statement of the case was prepared and forwarded to the Headquarters of Central Command that the petitioner was enrolled as Steno grade III by mistake and it being a typing error may be amended now. The respondents have indicated in their counter that the Headquarter Central Command did not agree with the proposal at this belated stage and was of the view that a court of inquiry be held to pin point the lapse as it affwra the promotion of not only the petitioner but also other Stenos due to common seniority roster. The Headquarters Central Command it is stated did not agree with the proposal.

7. The respondents have further indicated that the matter was discussed with the General Officer Commanding, Uttar Pradesh, Area Bareilly and Commander Dehradun Sub Area that since initial appointment of the petitioner was as Steno grade III and she has also given her willingness to have her

name included in the common seniority roster of Steno grade III, she cannot be appointed now as Steno grade II. Headquarters Central Command was accordingly informed that the petitioner be adjusted against a vacancy of Steno grade III and a Steno grade II be posted to Headquarters Dehradun Sub Area. The case of upgradation was closed.

8. The respondents further case is that consequently the applicant was posted to Headquarters, Central Command Lucknow vide HQs Central Command Lucknow letter dated 20.2.1992. The petitioner was not interested in leaving Dehradun Sub Area, she approached someone at Headquarters, Central Command, Lucknow to adjust her in Indian Military Academy Dehradun only. The said request was forwarded for posting on compassionate ground to Indian Military Academy Dehradun and accordingly the order dated 31.3.92 was issued.

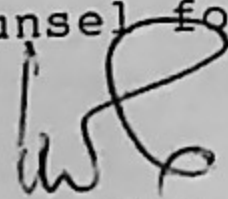
9. The learned counsel for the applicant invited our attention to the various recommendations made by the officers at different levels recommending correction of the appointment letter and for appointing the applicant as Steno grade II. In the counter the recommendations made have not been disputed but it has been pleaded that the ~~said~~ D.O. letters are simply recommendations for upgradation of petitioner to Steno grade II and does not confer any right to the petitioner for the post of Steno grade II. The recommendations were duly considered and in the light of the facts and circumstances in our opinion the request for upgradation as Steno grade II made by the applicant was rightly rejected. The orders passed in that behalf therefore do not call for any interference at our hands.

10. As far as the transfer is concerned from the facts indicated hereinabove it would be evident that the applicant herself on compassionate ground sought her retention in Dehradun and accordingly was transferred to I.M.A Dehradun in the same capacity as Steno grade III. The order of

transfer also does not call for any interference. We find that against the order of transfer the applicant had filed OA 621/92. Without issuing notice, at the admission stage itself the OA was disposed of with a direction "to dispose of the applicant's representation dated 7.4.92 by a reasoned and speaking order in accordance with the extant rules and regulations and till the decision of the above representation dated 7.4.92 the operation of the impugned order dated 31.3.92 shall remain stayed provided the applicant has not been relieved so far".

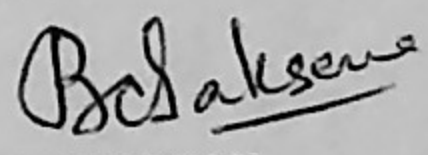
11. This OA was filed subsequent to the earlier OA and a relief for quashing of the order of transfer has been made. We have already dealt with the validity or otherwise of the order of transfer.

12. In view of the discussion hereinabove, no case for grant of any relief is made out. The OA fails and is dismissed. The original record submitted by the learned counsel for the respondents has been returned to him.


MEMBER(A),

Dated: August..st 21 1996

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VICE CHAIRMAN