

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 518 of 1995

Allahabad this the 25th day of November, 2002

Hon'ble Mr.S. Dayal, Member (A)  
Hon'ble Mr.A.K. Bhatnagar, Member (J)

1. V.K. Manocha,
2. P.K. Chatterjee,
3. S.C. Kushwaha,
4. Ahmad Ali,
5. Sanjay Kumar Tiwari,
6. Maqsood Husain,
7. Indrajit Prajapati,
8. R.K. Yadav,
9. Pratap Prasad,
10. S.M. Farooq,
11. A.K. Tiwari,
12. Mukesh Pal,
13. Askari Hassan,
14. Raj Bahadur,

All working as Clerks in the Office of  
the Chief Controller of Defence Accounts  
( Pensions ), Allahabad-211014.

Applicants  
By Advocate Shri Arvind Kumar

Versus

1. Union of India, through the Secretary, Ministry of Defence, Government of India, New Delhi.
2. The Controller General of Defence Accounts, West Block-V, R.K. Puram, New Delhi.
3. The Chief Controller of Defence Accounts (Pensions), Allahabad.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R ( Oral )

By Hon'ble Mr.S. Dayal, Member (A)

This application has been filed for a direction to the respondents to regularise the services of the applicants as Clerks from the initial date of their appointment or from completion of 240 days of their continuous service or from the date of Government orders issued in 1988. Another relief sought is for payment of arrears of salary including all the increments from the date of initial appointment. The seniority from the date of initial appointment also sought. The applicants have also sought setting aside of the order dated 31.05.95 (annexures A-11 to A-23 of the O.A.) by which their prayer for regularisation of casual service from the date of initial appointment has been rejected.

2. The case of the applicants is that they were appointed in 1995-96 as Casual Typist after being sponsored by the Employment Exchange and a competitive test and selection was done. All the applicants have educational qualification for the post of Clerk. They filed an application in 1987 registered as O.A.No.750 of 1987 and sought the relief to restrain the respondents from terminating the services of the applicants and replacing them with the Lower Division Clerks selected by the Staff Selection Commission and direction to the respondents to regularise the services of the applicants. By the Judgment dated 22.10.1991 the Tribunal directed the respondents to consider the regularisation of the applicants to the post in question. It is claimed by the applicants

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that they should have been regularised from the date they were initially engaged as Casual Typist. They have mentioned that several persons were appointed as Clerks before the applicants were regularised and they became senior to the applicants. Names of 5 persons who were appointed on 20.06.88, are mentioned. It has also been claimed that the applicants were entitled to pay at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day. The applicants have thus come to us for the aforesaid reliefs.

3. We have heard Shri Arvind Kumar, learned counsel for the applicant and Shri Amit Sthalekar, learned counsel for the respondents.

4. Learned counsel for the applicants has drawn our attention to annexure A-4, which is Office Memorandum of Ministry of Personnel, Public Grievances and Pensions dated 07.06.88 regarding recruitment of casual workers and persons on daily wages. It has been shown in the said office memorandum that <sup>all</sup> the administrative Ministries/Departments should undertake a review of casual work in the offices under their control on time bound basis so that at the end of six months, target of completing the review of appointment of casual workers by Ministries and Departments was completed and all eligible candidates were adjusted against the regular posts to the extent such regular posts were justified. It is claimed that though the

applicants kept on representing<sup>but</sup> their regularisation was delayed and was only done on 09.02.1993.

5. The respondents in their counter-reply have stated that the incumbent on the post of Clerk is recruited through Staff Selection Commission set up vide resolution dated 04.11.1975. It has also been mentioned that the applicants' selection was of casual nature on daily wages. Therefore, formality required for engaging an inaumbent on regular basis were not fully gone through. It is stated that the respondents had filed S.L.P. before the Supreme Court numbered as S.L.P. 1499 of 1992, which was dismissed. Thereafter the question of regularisation of casual services of the applicants was taken up. It has been stated that the applicants were advised to appear in the open market/recruitment test sponsored by the S.S.C. for their recruitment on the post of Clerk. The applicants<sup>had</sup> chosen not to appear before the Staff Selection Commission and claimed regularisation<sup>instead</sup>, which was allowed subsequently and given to them. The services of the applicants were regularised from 22.09.91, which was the date of the order of the Tribunal in the O.A. filed by the applicants.

6. We have considered the reliefs claimed by the applicants. The relief was for regularisation of their services in the O.A. filed by them. There was no claim for retrospective regularisation from the date of their initial engagement as casual typists. Their engagement as casual typists was fortuitous in nature. The respondents have mentioned that the

formalities which are pursued in appointing regular engagement have not gone through in the case of the applicants. The applicants would secure regularisation only on account of their fortuitous services for a period of time. Their claim for seniority on the basis of these services cannot be accepted.

7. The applicants have claimed payment of arrears of salary including increments in the scale of Rs.950-1500/- from the initial date of appointment, which in the light of what we have stated in the previous paragraph, is not tenable. The question of grant of 1/30th of minimum scale of pay plus D.A. which has been claimed on the basis of paragraph IV of the office memorandum of Ministry of Personnel, Public Grievances and Pension referred to earlier reads as follows;

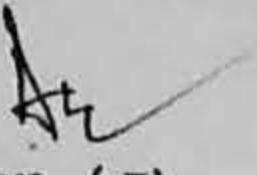
"(iv) Where the nature of work entrusted to the casual workers and regular employees is the same, the casual workers may be paid at the rate of 1/30th of the pay at the minimum of the relevant pay scale plus dearness allowance for work of 8 hours a day."

8. The requirement, therefore, is that the work of the applicants as Casual Typists should be the same as the work of regular employees. This claim should have been made in the O.A. filed in 1987 because peacemeal claim regarding the same matter made after interval of time, is not admissible if it could have been made ~~when~~ earlier litigation was undertaken.

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9. For the reasons stated above, we find no merit in the O.A., which is dismissed as lacking merits. No order as to costs.

  
Member (J)

  
Member (A)

/M.M./