

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No.
~~XXXXXX~~

141 of 1991.

DATE OF DECISION 14th February, 1994.

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Shri Anand Swaroop Verma Petitioner

Shri K.K.Shah Advocate for the Petitioner(s)

Versus

Union of India and Others Respondent

Shri Akil Kureshi Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. N.B.Patel : Vice Chairman

The Hon'ble Mr.K.Ramamoorthy : Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

1. 2. 3. 4. 7s.

: 2 :

Shri Anand Swaroop Verma,
Upper Division Clerk,
Canteen Stores Department Depot,
Near Sadar Bazar, Cantt.,
Ahmedabad.

...Applicant.

(Advocate : Mr.K.K.Shah)

Versus

1. Union of India,
(through Secretary,
Government of India,
Ministry of Defence,
South Block,
New Delhi - 110 001.

2. Chairman,
Board of Administration
& General Manager,
C.S.D., Adelphi,
119, M.K.Road,
Bombay - 400 020.

3. Area Manager,
Canteen Stores Deptt.Depot,
Near Sadar Bazar,
Cantonment,
Ahmedabad.

...Respondents.

(Advocate : Mr.Akil Kureshi)

JUDGMENT

O.A.NO. 141 OF 1991.

22-2 
Dated: 14th February, 1994.

Per : Hon'ble Mr. K.Ramamoorthy : Member (A)

The applicant is currently working as an Upper Division Clerk in the Canteen Stores Department, at Ahmedabad. He has approached the Tribunal to give directions to the respondents i.e., the Board of Administration of the Canteen Stores Department to reclassify him as a clerk in the Stores side and give consequential benefits.

2. The applicant entered service as a Lower Division Clerk on 06.01.1977. The Administration Staff working as Lower Division Clerks in the Canteen Stores Department is bifurcated in two wings designated as Lower Division Clerk (Office) and Lower Division Clerk (Stores). In view of better promotion prospects the applicant has been repeatedly requesting his department for his being remustered as Lower Division Clerk (Stores). The fact that he has been representing continuously for reclassification from Lower Division Clerk (Office) to Lower Division Clerk (Stores) has not been disputed. While the Department had earlier been considering such requests on adhoc basis, by virtue of their letter no.3/A-2/1214, dated 1st March, 1983, they decided to put a closure to such requests for reclassifications and further stated that the requests recorded in the waiting list were cancelled. Hence the applicant's request was treated as cancelled. However, the very same department decided on 30th June, 1987, to ask for fresh options for such a switch from persons recruited in the department w.e.f. 1979 01.08.1987. This date was preponed to 01.04.1977, vide order dated 16.09.1987. The applicant was beyond the pale of both these dates. Still, the applicant continued to represent. However, on 10.01.1990, the department came with an order that even individuals who joined the department before 01.04.1977, could give a new option, but their

seniority as Lower Division Clerk (Stores) would be counted as starting from the day of their joining on Stores side. In view of this proviso, the applicant did not exercise his option immediately after this letter of January, 1990. However, when he learnt that the department subsequently did not insist on this loss of seniority and had indicated in their reclassification order of 18th July, 1990, that the seniority will be maintained as per date of appointment as Lower Division Clerks, the applicant again approached the Department for consideration of his case, vide letter dated 29.08.1990. Meanwhile, the Central Administrative Tribunal, (Chandigarh) had also declared the department's order of 16.09.1987, prescribing the particular date of 01.04.1977, as an arbitrary cut-off date. By this judgment, they directed one applicant Shri Sapru to be considered for reclassification as Lower Division Clerk (Stores). On 31.12.1990, the present applicant again approached the Department for giving him benefit for consideration as in the case of Shri T.K.Sapru.

3. The respondents in their reply to the application before the Tribunal have stated that, the applicant had no inherent right for being allotted to one wing or the other. The respondents also deny the contention of better prospects for the employees of one wing over the other. In any case, the applicant had not exercised his option

before 01.03.1990, the date prescribed in the order of 10.1.1990. Therefore, the department had not given him any further chance for option.

4. It is clear that after the Central Administrative Tribunal (Chandigarh) Judgment, striking down the prescription of the date of 01.04.1977, as arbitrary, the department should have issued a fresh circular. There is considerable merit in the contention of the applicant that the proviso contained in para-3 of the circular no.3/A-2/1214/244, dated 10.1.1990, that seniority as Lower Division Clerk will be counted only on the date of their starting working in Stores side inhibited his exercise of option before 01.03.1990. The department itself has subsequently vide their order dated 28.08.1990, agreed that the seniority of individuals will be counted from the date of appointment without prejudice to the rights of the promotees who had already been promoted from the eligibility lists as per option asked for in 1987. It is clear that consequent to this clarifications, a revised date should have been given for the exercise of options for the switch over to cadre of Lower Division Clerk (Stores). A basic change in conditions should entail a fresh circular and a revised later date for exercise of option as per revised conditions.

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5. In any case, in this particular case, the applicant has been continuously representing in the matter with the department and, therefore, his case should have been considered even otherwise. That the applicant accepted the promotion as Upper Division Clerk in the office wing has been cited as another reason for not being considered for the post of Lower Division Clerk (Stores). However, the applicant himself has already stated in his application of 31.12.1990, that his promotion as Upper Division Clerk could be cancelled if, he were be classified as Lower Division Clerk (Stores) with retrospective effect. From a perusal of different representations made by the applicant it is clear that the case of the applicant has been dealt with rather perfunctorily.

6. The department is directed to immediately consider his applications of 29.08.1990, as an option letter exercised by the applicant in reply to applicant's circular No. 3/A-2/1214/244, dated 10th January, 1990, in relaxation of the time limit mentioned in para-4 therein. The applicant has accepted the position that after reclassification, he will not claim any seniority over persons who had already been promoted earlier by virtue of their options exercised in 1987, within the meaning of the circular No. 3/A-2/1214/5651, dated 28th August, 1990, (Annexure-A/12).

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The department is directed to decide on this representation within a period of five weeks hereof in the light of our above observations and convey the decision thereof to the applicant within ten days of their taking the decision.

7. With the above orders, the application is allowed with no order as to costs.


(K.Ramamoorthy)

Member (A)

14.02.1994.


N.B. Patel


(N.B.Patel)
Vice Chairman

14.02.1994.

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