

R/V

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 428/90

U.C. Sinha

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

This is the second inning by the applicant praying that in view of the Supreme Court judgment the respondents may be directed to recount the seniority of the applicant from the date of his initial appointment i.e. from 22.1.88, and the order passed by the Senior Administrative Officer dated 20.2.90 be quashed, by which the applicant was treated to be regular w.e.f. 23.9.88 at New Delhi and his request for treating him to have been appointed on regular basis as Stenographer Grade III w.e.f. 22.1.80 has been considered by the Division and not agreed to. He has also claimed the difference of arrears of salary from 1.1.87 to 22.9.88 and the period of reversion to be counted as period of service as Stenographer.

2. The applicant was selected by the department Selection Board, after being sponsored by the Employment Exchange and is working since 22.1.1980 on adhoc basis with the condition that his appointment will be terminated whenever eligible candidate is sponsored by the Staff Selection Commission. Even though the candidates from

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Staff Selection Commission were not available, the applicant was removed from the post of Stenographer and has been offered the post of Clerk, and the other candidates who were appointed along with him, were regularised but even then the applicant's services were terminated, without fulfilling the condition precedent for such termination. The D.P.C. tested him in Efficiency Bar test as a Stenographer and recommended that he may be promoted to the higher grade. The applicant made representation for absorption as regular stenographer but the representation bore no result and he was spared to join duty as L.D.C. on 1.12.1986. He was threatened that if he did not join as a Clerk his services as a Stenographer will be terminated, so he joined his duties as L.D.C. At this stage the applicant filed O.A. No. 226 of 1987 which was decided on 31st May, 1990 taking into consideration the pleas raised by the applicant and it was observed that in view of the fact that the applicant was working for nearly 7 years on adhoc stenographer and who was found qualified by the Staff Selection Commission, his posting as 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 L.D.C. In the 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 he takes over.


3. Both the parties submitted to this judgment. After the judgment, the applicant was transferred to Delhi and his services were regularised as grade III Stenographer and in the gradation list his name was placed at serial No. 48 and according to the applicant Smt. Barun Rani Bose and Smt. Nanita Chopra who joined the services and failed in the SSC examination just a little earlier/have been placed at serial No. 18 and 19 respectively and thus the order passed by the Tribunal has not been fully implemented.

4. The respondents have opposed the application and have contended that the applicant's entire case has been considered in the earlier application and this application is not maintainable.

5. The question was decided by the Tribunal earlier and the applicant was to be absorbed from the date of judgment and his seniority<sup>to</sup> be fixed. The application deserves to be allowed in part and the applicant will be absorbed from the date of judgment in O.A. No. 226 of 1987 and entitled to salary taking into consideration

that he was absorbed on 31.5.90 and not on subsequent date. No order as to costs.

  
Adm. Member.

  
Vice Chairman.

Shakeel/-

Lucknow: Dated 16.12.92