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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

O.A. No. 411/1991 (L)

Yadavendra Prasad and another Applicants

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.)

In this application the services of the applicants have been terminated vide order dated 14.10.91 passed by the Chief Superintendent, Central Telegraph Office, Lucknow. The applicant has been continuously in service from 1983. The post of Reserve trained pool Telegraphists was advertised on 22.10.82 and the applicants in response to the same, applied for the said post and after qualifying in the written and typing test, succeeded in the same and it was thereafter the appointment letters were issued to them. The applicants, as required, took five years training and although as per allegation they were appointed on regular post but salary was paid to them on hourly basis and they were treated as daily wages employees. They have also been paid separately for doing the job during the night hours. After being declared successful in the training a seniority list was prepared in which

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Sarvasri Vivek Chand, Suresh Chandra, Laloo Prasad etc. were junior to the applicants on the basis of lesser marks but instead of being regularised (Applicants) their services were terminated even though there was neither any shrinkage in the cadre nor the work against which the applicants have been engaged has come to an end nor the work load has been reduced. Only the applicants' services were terminated while others were retained in service. The applicants made representation against the same but of no consequence and that is why they have challenged the order of termination on variety of grounds including that the order was illegal and without jurisdiction and instead of ^{being} regularised they were terminated, that too without indicating any reason and that the respondents have not followed the principle of last come first go and the provisions of Industrial Disputes were not followed.

2. The respondents have resisted the claim of the applicants and according to them a list of 47 RTP Telegraphists was declared on 7th April, 83. It was detected that in place of writing 'Pass' for the candidates who acquired type speed of 40 words per minute, the Examiner allotted marks and selected list was declared on the basis of wrong valuation of type answer scripts. The re-evaluation of type answer sheets was done by another examiner who declared only 12 candidates successful. Out of 12, five were common as they were also declared selected in first select list, while 7 including the petitioners were selected as

fresh after revaluation. Several persons of the ~~xxx~~ first select list filed writ petition before the High Court and interim order was passed to the effect that candidates of ~~xxx~~ first select list may be appointed after giving them prescribed training. In the mean time the work reduced. The said writ petition stood transferred to this tribunal and was decided by a Bench of which one of (Hon. V.C.) was a member. The said case was decided on 10.5.91 being Smt. Indira Kumar and others vs. Union of India and others and it is in these circumstances the notice of termination have been issued and those of first list are to get appointment and the applicants being the junior most their services have been dispensed with.

3. According to the applicant, neither the work load was reduced nor the appointment was made subject to any condition that any one has to replace them yet their services were terminated. Taking into consideration the promissory estoppel applied in this case. Undoubtedly, the applicants' name was included in the select list and it was found that after inclusion of their name and in view of the judgment given in the case, it appears that the services were terminated, although there were no direction and those of second list would have been retained in service if work was available. Decision in this behalf is not quite clear as after having succeeded in the examination they will rank after those whose names were included in the

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list will be given preference to any one, and after getting appointment their appointment for regularisation will be considered that they have worked for so many years with the hope that their services ~~are being~~ will be regularised.

4. Thus the respondents are directed that against any vacancy the applicants or similiary placed persons are to be given appointment first and no outsider will be appointed in preference to them and their regularisation will be considered taking into consideration their past service which were terminated with no fault of theirs in view of the judgment of this Tribunal.

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The application is disposed/with the above directions with no orders as to costs.

Adm. Member.

Vice Chairman.

Shakeel/

Lucknow: Dated: 1/6/92
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