

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
LUCKNOW BENCH, LUCKNOW.

ORIGINAL APPLICATION NO.500 of 1991.

this the 25<sup>th</sup> day of May'99.

HON'BLE MR D.C. VERMA, MEMBER(J)  
HON'BLE MR A.K. MISRA, MEMBER(A)

Krishna Kumar Agrawal, aged about 23 years, S/o  
Sri Shyam Prakash Agrawal, R/o 318/2, Banwali Gali  
Chowk, Lucknow.

Applicant.

By Advocate: None.

Versus.

Union of India, through its Secretary Information  
& Broad Casting, Civil Secretariat, New Delhi.

2. Executive Engineer (Electrical) Civil  
Construction Wing, All India Radio, 9-Rani Lakmi  
Rai Marg, Lucknow.

Respondents.

By Advocate: Sri A. Trivedi for Shri A.K.

Chaturvedi.

O R D E R.

A.K. Misra, Member(A).

By this O.A., the applicant has challenged the termination order dated 5.12.91 (Annexure-1 to the O.A) passed by Executive Engineer (Electrical), Civil Construction Wing, All India Radio, Lucknow (respondent No.2). The applicant was working as Typist-Clerical Grade-II prior to his termination in the office of the respondent No.2. The applicant worked as Typist-Clerical Grade-II under the respondent No.2 for more than two years and accordingly the applicant has claimed regularisation and has submitted that his termination was wrong.



2. Briefly stated the facts are that the name of the applicant was sent by Employment Exchange and a call letter dated 5.10.89 <sup>he</sup> (Annexure-2) was issued to the applicant and was asked to appear for an interview on 13.10.89. Thereafter, on 25.11.89, letter of appointment was issued to the applicant stating that he has been engaged as Casual Typist, but the appointment will not render any right on the applicant in so far as the claim for regular appointment is concerned. The applicant joined as Typist-Clerical Grade-II on casual basis, in November '89.

3. On behalf of the respondents, it has been submitted that the appointment of the applicant as Casual Typist was cancelled by order dated 5.12.91 (Annexure-1) on the instructions received from Staff Selection Commission (in short S.S.C.) and in view of the fact that no expenditure sanction was received from Headquarters from December '91 onwards on account of reduced work load in the office of Executive Engineer (Electrical), Civil Construction Wing, All India Radio, Lucknow. It has been brought to our notice that appointment to clerical Grade-II, Ministerial class III is made after due process of selection by S.S.C. In this regard, it has been brought to our notice on behalf of the respondents that the regular appointment to class-III cannot be made by the respondents and only S.S.C. is competent to make such regular appointments. It has also been brought to our notice that since work load in the office of the respondent No.2 had gone down, no other person had been engaged as Casual Typist after 5.12.89. In reply to the averments made on



behalf of the applicant that his removal as Casual Typist is in contravention of the Industrial Disputes Act, 1947, it has been submitted on behalf of the respondents that provisions of Industrial Disputes Act are not applicable in the case of the applicant as the answering respondents do not constitute an industry as defined in the said Act. Since the applicant had not been appointed on selection by S.S.C., it was submitted that he was not entitled for regularisation.

4. In Rejoinder, it has been submitted on behalf of the applicant that there were eight sanctioned posts of Typist-Clerical Grade-II, against which only five persons were working and three posts were lying vacant. Further, it was submitted on behalf of the applicant in the Rejoinder that after termination of the applicant, three persons namely Km. Rani Verma, Km. Madhu Bala & Km. Poonam Bhagnagar had been appointed on casual basis. It was argued that since the applicant had already been working since November '89, his claim for appointment on casual basis was stronger than the claim of these three persons, who were engaged on casual basis. The factual position in this regard has been countered on behalf of the respondents and it has been submitted that only one Sri Arvind Kumar has joined under the respondent No.2 as Clerk Grade-II, but he was duly selected by S.S.C. As regards <sup>the</sup> three ladies who were appointed on casual basis, the respondents have brought to our notice that the said three ladies had not been engaged at any stage under the respondent No.2 either during engagement of the applicant or even after his dis-engagement and, therefore, the appointment



2. Briefly stated the facts are that the name of the applicant was sent by Employment Exchange and a call letter dated 5.10.89 (Annexure-2) was issued to the applicant and <sup>he</sup> was asked to appear for an interview on 13.10.89. Thereafter, on 25.11.89, letter of appointment was issued to the applicant stating that he has been engaged as Casual Typist, but the appointment will not render any right on the applicant in so far as the claim for regular appointment is concerned. The applicant joined as Typist-Clerical Grade-II on casual basis, in November '89.

3. On behalf of the respondents, it has been submitted that the appointment of the applicant as Casual Typist was cancelled by order dated 5.12.91 (Annexure-1) on the instructions received from Staff Selection Commission (in short S.S.C.) and in view of the fact that no expenditure sanction was received from Headquarters from December '91 onwards on account of reduced work load in the office of Executive Engineer (Electrical), Civil Construction Wing, All India Radio, Lucknow. It has been brought to our notice that appointment to clerical Grade-II, Ministerial class III is made after due process of selection by S.S.C. In this regard, it has been brought to our notice on behalf of the respondents that the regular appointment to class-III cannot be made by the respondents and only S.S.C. is competent to make such regular appointments. It has also been brought to our notice that since work load in the office of the respondent No.2 had gone down, no other person had been engaged as Casual Typist after 5.12.89. In reply to the averments made on



behalf of the applicant that his removal as Casual Typist is in contravention of the Industrial Disputes Act, 1947, it has been submitted on behalf of the respondents that provisions of Industrial Disputes Act are not applicable in the case of the applicant as the answering respondents do not constitute an industry as defined in the said Act. Since the applicant had not been appointed on selection by S.S.C., it was submitted that he was not entitled for regularisation.

4. In Rejoinder, it has been submitted on behalf of the applicant that there were eight sanctioned posts of Typist-Clerical Grade-II, against which only five persons were working and three posts were lying vacant. Further, it was submitted on behalf of the applicant in the Rejoinder that after termination of the applicant, three persons namely Km. Rani Verma, Km. Madhu Bala & Km. Poonam Bhagnagar had been appointed on casual basis. It was argued that since the applicant had already been working since November '89, his claim for appointment on casual basis was stronger than the claim of these three persons, who were engaged on casual basis. The factual position in this regard has been countered on behalf of the respondents and it has been submitted that only one Sri Arvind Kumar has joined under the respondent No.2 as Clerk Grade-II, but he was duly selected by S.S.C. As regards <sup>the</sup> three ladies who were appointed on casual basis, the respondents have brought to our notice that the said three ladies had not been engaged at any stage under the respondent No.2 either during engagement of the applicant or even after his dis-engagement and, therefore, the appointment



of these three ladies would not confer any right on the applicant for re-appointment.

5. We have heard the learned counsel for the respondents and have perused the pleadings on record.

6. The admitted factual position in this case is that the applicant was appointed as Typist-Clerical Grade-II on casual basis and worked in that capacity from November'89 till 5.12.91. In the letter of appointment dated 25.11.89, it was categorically mentioned that the appointment will not confer any right on the applicant of claiming a regular appointment. There is also no dispute that the appointment on regular basis can only be made by S.S.C. and not by the respondents. It is also not disputed that the applicant was not appointed on regular basis by S.S.C. It is not denied that Shri Arvind Kumar, who joined as Typist-Clerk Grade-II under the respondent No.2 was appointed as a result of selection by S.S.C. The contention of the applicant that the three ladies were appointed on casual basis after dis-engagement of the applicant has also been controverted in as much as three ladies were never engaged under the respondent No.2 at any stage. In the light of these facts, the applicant cannot have any claim to continue as Typist-Clerical Grade-II under the respondent No.2 nor can he have any claim for regularisation on the said post.

7. The O.A. is accordingly dismissed. No costs.

  
MEMBER(A) 25/5/99

  
MEMBER(J)

LUCKNOW:DATED:

GIRISH/-