

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH: PATNA

Registration No.OA-55 of 1996

(Date of order 2.9.1998)

Uttam Sagar Dutta,

Resident of Karichak, P.O.Mirjanh,

District Bhagalpur . . . . .

Applicant

By Advocate: Mr. S.K.Bariar

Versus

1. Union of India through Secretary,  
Information and Broadcasting,  
Parliament Street, New Delhi.
2. Director General, All India Radio,  
Akashwani Bhawan, Parliament Street,  
New Delhi.
3. Under Secretary, Staff Selection Commission,  
Department of Personnel & Training,  
Ministry of Personnel, Public Grievances and Pension,  
Block No.12, Kendriya Karyalaya Parisar, Lodhi Road,  
New Delhi.
4. Regional Director, Staff Selection Commission,  
8, Bailey Road, Allahabad.
5. Shri R.N.Prasad, Station Engineer,  
I/c Station Director, All India Radio, Bhagalpur.
6. Administrative Officer, All India Radio,  
Bhagalpur.

..... Respondents

By Mr. Lalit Kishore, Addl.Standing Counsel.

Coram: Hon'ble Mr. Justice V.N.Mehrotra, Vice-Chairman.

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Hon'ble Mr. Justice V.N.Mehrotra, V.C.

This OA has been filed by the applicant under section 19 of the Administrative Tribunals Act, 1985 praying that the respondents be directed to regularise the services of the applicant as Clerk-cum-Typist from the date of initial appointment. It is also prayed that the respondents be directed to give monetary benefits to the applicant. It has also been prayed that respondent no.3 and 4 may be directed to declare the result of the applicant.

2. The applicant has alleged that he was appointed as casual Clerk-Cum-Typist i.e. LDC in October, 1987 in All India Radio, Bhagalpur against a sanctioned post. In the year 1988 the respondents requested the Employment Exchange, Bhagalpur to sponsor the names of candidates for the post of Clerk-Cum-Typist (LDC). The Employment Exchange sponsored names of about 50 candidates including the applicant. The applicant appeared in the Hindi/English typing test on 14.12.1988 and he was declared successful along with two other candidates. It is claimed that instead of sending the name of the applicant for confirmation/regularisation. The respondent no.5 wrote to the Staff Selection Commission, Allahabad for selection of candidates for one post of Hindi Typist and one post of Clerk Grade-III and post of Stenographer, English for All India Radio, Bhagalpur. Shri N.R.Nag, the then Programme Executive sent a letter dated 24.6.1991 to Staff Selection Commission, Allahabad for considering the applicant's candidature for the post of regularisation/confirmation as casual typist cum clerk (LDC) after relaxation of upper age limit in the light of O.M. dated 16.7.1990. The Ministry of Personnel and Public Grievances and Pension issued a notification dated 21/27 August, 1993 that the

persons who were working as casual worker/daily rated employee in Group 'C' post were entitled to appear in the test for regularisation. It was also mentioned that the applications forms should be forwarded in the prescribed proformae, duly recommended by his Office to the Staff Selection Commission. The applicant fulfilled all the requisite qualification for regularisation as he had worked for more than 240 days in the year 1988 and also in the year 1989, he was appointed through Employment Exchange and has passed the Hindi and English Typing test. The application of the applicant was forwarded in prescribed proformae duly recommended by his office on 30.9.1993. The office of respondent no.3 arbitrarily withheld the Admit Card of the applicant but the applicant approached the Staff Selection Commission, Allahabad and got a provisional/duplicate Admit Card and appeared in the test on 16.12.1993. The applicant was, however, not informed about the result of the said test. He has got information that respondent no.5 has furnished wrong and misleading facts to the Under Secretary, Department of Personnel and Training, respondent no.3 who had made query regarding the service condition of the applicant. It was wrongly mentioned that the applicant was not appointed through Employment Exchange. Wrong information was also given about the number of days for which he had worked and also about his passing the typing test. It is further asserted that for the last several months the applicant was not being engaged as Typist or Clerk. The applicant claims that considering the facts mentioned in the OA he was entitled to be regularised as Clerk-cum-Typist. He has also claimed that the result of the test held by the Staff Selection Commission should be directed to be declared by the authorities concerned.

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3. The respondents have filed written statement alleging that the applicant was casually engaged on daily wages at the All India Radio, Bhagalpur for 184 days in the year 1988 and 107 days in 1989 in respect of which bills and payment vouchers were available. It has also been mentioned that there is no record to show that the applicant was engaged as Casual Typist after July, 1989. It is claimed that the certificate Annexure-1 issued by the respondent no.5 on 17.12.1988 was not a certificate regarding the work done by the applicant but was given on his request to enable him to apply for outside post in NTPC. In the year 1988 names were called from Employment Exchange, Bhagalpur who forwarded the names of 15 persons including the applicant. The applicant was kept in the selection panel along with other persons for engaging them on rotational basis on daily wages. In 1991, Shri N.R.Nag, Programme Executive wrote a letter to the Deputy Director, Staff Selection Commission stating that the applicant had worked as LDC-cum-Typist from 1987 to April, 1989 and crossed the age of 25 years so he should be given age relaxation. This letter was written without any authority. The applicant appears to have applied to the Staff Selection Commission with vague information. A letter was received from Staff Selection Commission on 27.1.1994 addressed to the Administrative Officer, who was not competent to enter into correspondence without the approval of respondent no.5. On receipt of this letter the respondent no.5 furnished requisite information to the Staff Selection Commission and according to the same he was not entitled to appear in the selection test, as detailed in para 10 of the written statement. The respondents have further asserted that the applicant was never appointed against any sanctioned post even on ad hoc basis. He was engaged in Programme Section for casual typing work as and when required. It is also claimed that the assertion that the applicant had worked for more than 240 days in the year 1988

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as well as 1989 as casual Typist is not borne by the record period casual payments available in the Department. It is on these facts asserted that the applicant was not entitled to be regularised nor he can claim that the result of his test by the Staff Selection Commission should be declared.

4. The applicant has filed rejoinder re-asserting that he had worked for more than 240 days as casual Clerk-Cum-Typist in the year 1988 as well as in 1989 and was entitled to appear in the test held by the Staff Selection Commission. It is also asserted that the services of the applicant should have been regularised in the light of judgment by the Principal Bench in OA-563 of 1986, Anil Kum Mathur vs. Union of India. It is further claimed that it is wrong to say that the applicant has not worked after July, 1989 as will appear from the documents Annexure-16 series. It is also claimed that the applicant used to mark his presence in the attendance sheet which is Annexure-19.

5. I have heard the learned counsel for the parties and have perused the material on record. According to the assertions by the applicant ~~that~~ he was initially engaged as Casual Clerk-cum-Typist by the All India Radio, Bhagalpur in the year 1987 and subsequently in the year 1988 names were called from the Employment Exchange, Bhagalpur for engagement of casual Clerk-cum-Typist. It is further claimed that Employment Exchange forwarded the names of several persons including the applicant and after holding typing test a panel was prepared which included the applicant. The applicant has claimed that in the year 1988 and also the year 1989 he worked for more than 240 days as Casual Clerk-cum-Typist. It has also been claimed that even after that the applicant has been working as casual typist.

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The respondents have, however, not admitted that the applicant has worked for more than 240 days in the year 1988 and 1989. They have also not admitted that the applicant was initially engaged in the year 1987. The applicant has however, filed certificate dated 17th December, 1988 by Shri R.N.Prasad, Assistant Station Engineer, All India Radio, Bhagalpur according to which the applicant had been working as a casual clerk-cum-Typist since October, 1987. The respondents themselves have filed documents Annexure R/6 series to indicate that the applicant was engaged as Casual Typist in the years 1988 and 1989. The applicant has filed document Annexure-13 to the rejoinder showing that he had passed the typing test and was placed 2nd in the panel of Casual Typist prepared by the authority concerned. Further, the fact that the applicant was engaged for various periods after July 1989 also will be apparent from the document which bears page No.84 to 170 of the written statement. Similarly, the applicant has also filed documents Annexures-16,17 and 18 with the rejoinder to indicate that he was being engaged for various periods on different days in the years 1991 and also in the year 1997. So it is not correct to say that the applicant was not engaged after July, 1989 on casual basis.

6. During the hearing of this OA Shri S.K.Bariar the learned counsel for the applicant stated that the applicant is now not pressing the relief regarding the declaration of the result of the test held by Staff Selection Commission, Allahabad. That relief has been mentioned in Para 8(d) which is now not pressed on behalf of the applicant. The learned counsel has however, asserted that considering the number of days for which the applic

has worked as Casual Clerk-Cum-Typist, he should have been considered for regularisation as the post was still vacant. In view of this statement it is not necessary to consider as to whether the applicant was in fact entitled to appear in the test held by the Staff Selection Commission and if so, whether direction for declaring his result should be issued. The only thing to be considered is as to whether the applicant could pray for consideration of his claim for regularisation as Clerk-Cum-Typist. Shri Lalit Kishore, Additional Standing learned counsel representing the respondents fairly stated that as the applicant had not represented for considering his claim for regularisation, the same has not been considered. He has further stated that in case the applicant so represents and produces necessary documents in support of his claim for regularisation, it will be considered by the appropriate authority. The learned counsel for the applicant also has no objection if appropriate direction for consideration of his case for regularisation is issued.

7. Considering the conflict between the stands taken by the parties regarding the actual number of days for which the applicant has worked as casual Clerk-Cum-Typist, it will be appropriate to issue direction to the appropriate authority for considering the entire matter for regularisation of the applicant to the post of Clerk-Cum-Typist at All India Radio, Bhagalpur.

8. In view of the above discussion this OA is disposed of with the direction that in case the applicant files a representation along with necessary documents for regularisation of his appointment as Clerk-Cum-Typist at All India Radio, Bhagalpur, to the respondent No.2, Director General, All India Radio, within one month of this order, the Director General will consider the same and pass appropriate orders

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in the matter within a period of four months from  
the date on which the said representation is received  
by him. No order as to costs.

*V.N. Mehrotra*  
2.9.1998  
(V.N. MEHROTRA)  
VICE-CHAIRMAN

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