

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH, CAMP AT NAGPUR.

Original Application No.263/87.

Shri Shyam Singh,  
C/o. Directorate of  
Marketing and Inspection,  
New Secretariat Building,  
Nagpur.

... Applicant

V/s.

1. Union of India through  
Secretary, Ministry of  
Agriculture (Dept. of Rural  
Development),  
New Delhi.
2. Head of the Department,  
Directorate of  
Marketing and Inspection,  
New Secretariat Bldg.,  
Nagpur.

... Respondents.

Coram: Hon'ble Member(J), Shri M.B.Mujumdar,  
Hon'ble Member(A), Shri M.Y.Priolkar.

Appearances:

Shri K.N.Dadhe,  
Advocate for the  
applicant and  
Shri Ramesh Darda  
for the respondents.

ORAL JUDGMENT:

(Per Shri M.B.Mujumdar, Member(J)) Dated: 13.3.1989.

In this application under section 19 of the  
Administrative Tribunals Act, the applicant has challenged  
his reversion to the post of Peon by the order dated  
6.3.1987.

2. The applicant was born on 7.6.1951. He was  
appointed as a Peon on 17.6.1971 in the National Commission  
of Agriculture in a temporary capacity w.e.f. 10.6.1971.  
In 1976 that Commission was closed and the applicant was  
declared surplus. But he was placed at the disposal of  
Director of Marketing and Inspection (Branch Head Office),  
New Secretariat Building, Nagpur, i.e. Respondent No.2,

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w.e.f. 4.9.1978. He appeared for the Recruitment test and interview for the post of L.D.C. on 28.8.1978 and 5.9.1978, respectively and he was selected. By order dated 30th October, 1978 he was offered the post of L.D.C. on purely short term and ad hoc basis for a period not exceeding 90 days or till the regular candidates under the Central Secretariat Clerical Services (C.S.C.S.) becomes available, whichever was earlier. According to the offer, the short term appointment was not to confer any right to seniority or regularisation to the applicant in the grade of L.D.C. The applicant accepted the offer and accordingly he was appointed as L.D.C. on ad hoc basis.

3. In 1978 there were some vacancies in the cadre of Stenographer Grade 'C' and 'D' of the C.S.C.S. cadre in the Directorate of Marketing and Inspection. Due to non-availability of the regular candidates sponsored by the cadre authority, viz., Ministry of Rural Development, Branch Head Office at Nagpur conducted local departmental test/interview on 4th September, 1978 and 24th October, 1978 to fill up the vacancies on short term basis through the Employment Exchange. According to the instructions issued by the Department of Personnel and Training regarding such tests departmental candidates could also compete along with outside candidates.

4. There was only one vacancy of Steno Grade 'D' for which test was held on 4.9.1978. Ten outside candidates and one departmental candidate i.e. the applicant appeared for the test. As the applicant's name appeared at Sl.No.3 he could not be appointed against the vacancy of Steno Grade 'D'. So far as the post of Steno Grade 'C' was

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concerned there were 3 vacancies in the Branch Head Office and the test for these posts was held on 24.10.1978. Nine departmental candidates and one sponsored by the Employment Exchange appeared for that test. None of them qualified in the test. However, two candidates who had qualified in the previous test held on 4.9.1978 were offered these posts by downgrading the posts as Stenographer Grade 'D' on purely short term and ad hoc basis. The applicant was one of them and he was appointed on 28.11.1978. As per the terms of the order dated 28.11.1978 the appointment was purely temporary and ad hoc and a short term one. The appointee was not to have any claim for regular absorption. Though the initial appointment was for a short period it was continued from time to time and it is not disputed that the applicant was working as Stenographer Grade 'D' on ad hoc basis w.e.f. 29.11.1978 till 1.2.1987. During that period he was given yearly increments and he was also allowed to cross Efficiency Bar (EB), w.e.f. 1.11.1984.

5. However, by order dated 6.3.1987 the applicant was reverted and posted as a Peon under Main Permanent Headquarter Scheme w.e.f. 2.2.1987. The applicant has challenged that order by filing this application.

6. The respondents have resisted their claim by filing their exhaustive written statement.

7. We have heard Mr.K.N.Dadhe, learned advocate for the applicant and Mr.Ramesh Darda, learned advocate for the respondents.

8. The facts stated above are no more in dispute. However, Mr.Ramesh Darda urged the following points before us: (1) There was no concurrence of the competent authority

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of C.S.C.S. for the appointment of the applicant as L.D.C. (2) The applicant was over-aged when he was appointed as L.D.C. and Steno Grade 'D' and hence he could not have been appointed as LDC and Steno Grade 'D'. (3) The applicant had not worked as L.D.C. on regular basis before he was appointed as Steno Grade 'D' and hence his appointment as Steno Grade 'D' was illegal.

9. We will deal with the points (2) and (3) first. As per the Central Secretariat Clerical Services (Lower Division Clerks Examination for Group 'D' Staff) Regulation, 1969 age limit for recruitment to the post of LDC was 25 years, but relaxable upto <sup>35</sup>25 years for ~~the~~ Government servants in accordance with the orders or the instructions issued by the Central Government. These Regulations were applicable so far as the Headquarters of the Director of Marketing and Inspection and its attached offices are concerned. However, there were separate set of rules called Director of Marketing Inspection (Lower Division Clerk in Sub-offices Recruitment) Rules, 1972 so far as sub-offices of the Directorate were concerned. These rules were superceded by the Directorate of Marketing and Inspection (Lower Division Clerk in Sub-Offices Recruitment) Rules, 1982. According to both 1972 and 1982 Rules the age limit was 25 years, but relaxable upto <sup>35</sup>25 years for Government servants in accordance with the instructions or orders issued by the Central Government. Thus though the applicant had completed 27 years when he was appointed as LDC in 1978 the condition regarding upper age limit was relaxable because before that he was working as

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a Peon. We were told by Mr. Ramesh Darda, learned advocate for the respondents that the condition regarding age limit for appointment to the post of Stenographer Grade 'C' and 'D' was the same. In other words, the age limit was relaxable upto 35 years when the applicant was appointed as Stenographer Grade 'D' on 28.11.1978.

10. Even according to the letter dated 20.7.1967 a copy of which is annexed as Annexure-III to the respondents' reply the concession regarding age was admissible where an employee had rendered not less than 3 years continuous service in the same department. The applicant had rendered more than 3 years service prior to 4.9.1976 as LDC if we take into account his services in the National Commission of Agriculture also.

11. Now turning to the first point even according to Respondents, Respondent No.2 i.e. Head of Department, Director of Marketing and Inspection, Nagpur was competent to make appointments to the posts of LDCs and Stenographers Grade 'C' and 'D' in 1978. The applicant had requested alternatively for appointment in the Sub-office cadre of Stenographers in the Directorate of Marketing and Inspection by letter dated 9.12.1983 from the Ministry of Rural Development, Government of India. A copy of the same is annexed as Annexure-12 to the rejoinder filed by the applicant. The applicant's request for regularisation of his appointment as Stenographer Grade-D in C.S.C.S. was rejected, but it was directed that his request for appointment in the Sub-office of the cadre

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of Stenographers in Directorate of Marketing and Inspection may be considered by the Directorate itself. As the applicant was appointed as LDC and as Stenographer Grade 'D' on 30.10.1978 and 28.10.1978, respectively by respondent No.2 his appointment shall have to be treated to be in the Sub-office. As he was entitled to age relaxation his appointment as LDC and then as Stenographer Grade 'D' cannot be said to be illegal or contrary to any rules.


12. In result the reversion of the applicant to the post of Peon by the order dated 6.3.1987 is improper and illegal. It may be noted that the applicant was working as Stenographer Grade 'D' continuously for more than 8 years. He was given his yearly increments and he was also allowed to cross EB with effect from 1.11.1984. This shows that his services as a Stenographer Grade 'D' were satisfactory. Before reverting him no show cause <sup>notice</sup> ~~cause~~ was given to him. Hence we hold that the reversion order dated 6.3.1987 is illegal and liable to be quashed and set aside.

13. In result, we pass the following order:-

ORDER

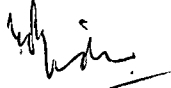
- (1) The order dated 6.3.1987 passed by the Joint Agricultural Marketing Adviser, at Annexure '6' to the application, is hereby quashed and set aside with consequential benefits regarding difference in arrears of pay and allowances from that day.
- (2) It is hereby directed that the applicant's appointment as LDC by order dated 30.10.1978 and as Stenographer Grade 'D' by order

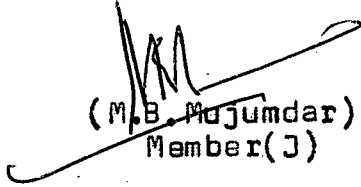
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dated 28.11.1978 be deemed to have been passed after relaxing age limit and he be deemed to have been appointed in the Sub-offices of Directorate of Marketing and Inspection.

(3) There will be no order as to costs.

  
(M.Y. Priolkar)  
Member(A)

  
(M.B. Mujumdar)  
Member(J)