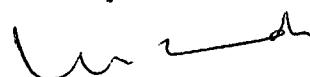


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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**BOMBAY BENCH****O.A. No. 402/88**
T.A. No. --**198****DATE OF DECISION** 1-3-94**P.M. Mohane****A. Ramachandran****Petitioners****Mr. S. Natarajan****Advocate for the Petitioner(s)****Versus****U.O.I. & Ors.****Respondent****Mr. P.M. Pradhan for R. Nos. 1 & 2****Advocate for the Respondent(s)****Mr. B. Ranganathan for R. No. 3****CORAM****The Hon'ble Mr. Justice M.S. Deshpande, V.C.****The Hon'ble Mr. R. Rangarajan, Member (A)**

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether in needs to be circulated to other Benches of the Tribunal?


 (M.S. DESHPANDE)
 VC

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.402/88

1. P.M.Mohane

2. A.Ramachandran

.. Applicants

-versus-

1. Textile Commissioner,
 New CGO Building, New Marine Lines,
 Bombay - 400 020.

2. Union of India
 through
 Secretary,
 Ministry of Textiles,
 Govt. of India,
 New Delhi - 110 001.

3. A.S.Subramanian,
 Reporter,
 Office of the Textile
 Commissioner,
 New Marine Lines,
 Bombay - 400 020.

.. Respondents

Coram: Hon'ble Shri Justice M.S.Deshpande,
 Vice-Chairman.

Hon'ble Shri R.Rangarajan, Member(A)

Appearances:

1. Mr.S.Natarajan
 Advocate for the
 applicants.

2. Mr.P.M.Pradhan
 Counsel for
 Respondents No.1 & 2

3. Mr.B.Ranganathan
 Counsel for
 Respondent No.3

ORAL JUDGMENT:
 (Per M.S.Deshpande, V.C.)

Date: 1-3-1994

The two applicants by this application seek a declaration that the posts of Senior P.A. in the revised grade of Rs.2000-3200 are liable to be filled in by promotion of Stenographers with the requisite qualifications as mentioned in the Ministry of Personnel, Public Grievances and Pension, letter dt. 1-3-1988

Un Ldr

and that the applicants are liable to be promoted to the said post of Senior P.A. in the grade of Rs.2000-3200 from 1-1-1986, the date of the recommendations of the Pay Commission were given effect to. The seniority of respondent No.3 A.S.Subramanian vis-a-vis of the applicants P.M.Mohane and A.Ramachandran is stated in Ex.'E' to the application. A.S.Subramanian was senior to both the applicants and came to be appointed as Reporter on 26-8-64 while S.G.Rao, who has since retired, was appointed as Reporter on 24-1-77. Rao was junior to first applicant Mr.P.M.Mohane but senior to second applicant A.Ramchandran. A.S.Subramanian and S.G.Rao were in the category of Reporter while the two applicants were in the category of Stenographer Grade-I which carry equivalent pay scale i.e. Rs.1640-60-2600-EB-75-2900/- It is not in dispute that the feeder cadre for both the Reporters and Stenographer Gr.I were from Stenographer Gr.II.

2. The contention of the applicants is that by virtue of letter dt. 1-3-88(Ex.'C' to the application) on the subject of Stenographers in non-secretariat organisations of the Govt. of India - Introduction of Higher level posts in the scale of Rs.2000-3200 - stenographers attached to the officers of Senior Administrative Grade or equivalent post will be in the scale of Rs.2000-60-2300-EB-75-3200 and these posts are to be created by upgrading the required number of posts of stenographers from the lower grades. It was therefore urged that the category of Reporters was excluded and it was only the Stenographer Gr.I to be eligible for being appointed to the grade of Rs.2,000-3200 on ~~an~~ non-selection basis by virtue of the upgradation. In para 3 of the letter

however the position is clarified as follows:

"As regards the immediate vacancies becoming available in the grade of Sr.P.A. as a result of upgradation of posts as per the notification dt. 13-9-1986, these will be filled by promotion on the basis of non-selection from amongst the officers possessing 2 years' regular service in the grade of Stenographers Gr.I failing which with combined regular service of 7 years' in Stenographer Gr.I and Stenographer Gr.II and failing which both 7 years' regular service in the post of stenographer Gr.II."

In para 5 the Ministry of Finance etc. were requested to frame recruitment rules for the new level of Sr.P.A. on the above lines and also to hold DPCs for effecting promotions of eligible officers as early as possible.

3. We find that the respondents were right on the submission that the category from which the appointments were to be made to the grade of Rs.2,000/- - 3200/- was from those officers possessing two years regular service in the grade of Stenographer Gr.I preferentially. There is no dispute about the position that the two persons who were placed in the category of reporter A.S.Subramanian and S.G.Rao were stenographers and A.S.Subramanian was senior to the present applicants. By O.M. dt. 4-7-78 the pay scale of Rs.550-25-750-EB-30-900 was to be allotted to posts of stenographers attached to Heads of Departments in the non-secretariat organisations drawing pay in the scale of Rs.2250-125/2-2500 and above and this scale was to be introduced in the non-secretariat

.....

organisations by adjusting the present sanctioned strength of the posts of stenographers. The recruitment to the post of Reporters and Stenographers Gr.I were to be made from the category of Rs.550-750. It is obvious that the duties and functions performed by the Reporters were similar to those performed by the Stenographer Gr.I and even the Reporters were attached to the officers of the Textile Commissioner. Merely because there was a change in the nomenclature, the duties and functions of the Reporters and Stenographer Gr.I would not be distinct and since the source of recruitment of both the stenographers were similar merely a change in the nomenclature by designating some as Reporters would not make any difference or distinction.

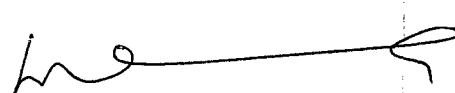
4. The rules as contemplated by letter dt. 1-3-88 came to be framed on 10-6-88. However, the post in the scale of Rs.2000-3200 was filled by appointing respondent No.3 by order dt. 27-5-88 w-e-f- 19-8-87. The rules framed subsequently would not govern the antecedent situation, but on principle we do not see any error in the approach of respondents No.1 and 2 in making the appointment of respondent No.3. He also belonged to the cadre of Stenographer and on due consideration of para 3 of letter dt. 1-3-88(Ex.'C') we find that what is contemplated is not recruitment from the post of Stenographers Gr.I but from the candidates who were possessing two years regular service in the grade of Stenographer Gr.I, to which category respondent No.3 is belonged. He was also senior to the present applicants and no exception can therefore be taken to the appointment of respondent No.3.

5. In result we see no merit in the

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application which is dismissed. There will be no order as to costs.



(R.Rangarajan)
M(A)



(M.S.Deshpande)
V.C.

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