

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

1. Contempt Petition No.125/95
in
Original Application No.103/95.
2. Contempt Petition No.133/95
in
Original Application No.464/95.
3. Contempt Petition No.126/95
in
Original Application No.466/95.
4. Contempt Petition No.131/95
in
Original Application No.467/95.
5. Contempt Petition No.152/95
in
Original Application No.507/95.

Pronounced

....., this the 27th day of September 1996.

Coram: Hon'ble Shri B.S.Hegde, Member(J),
Hon'ble Shri M.R.Kolhatkar, Member(A).

1. Ms.Geeta B.Masurkar.
2. P.K.Verma
3. Smt.T.D.Taldeokar.
4. S.K.Pandey.
5. P.Singh. Applicents.
(By Advocate Shri M.S.Ramamurthy).

V/s.

Union of India through the
Secretary, Ministry of
Surface Transport,
Transport Bhavan,
1, Parliament Street,
New Delhi.

Director General of Shipping,
Jahaz Bhavan,
Walchand Hirachand Marg,
Bombay.

The Director,
Marine Engineering
Training, Directorate
of Marine Engineering,
Training, P 19,
Taratola Road,
Calcutta. Respondents.

Deputy Director
Directorate of Marine
Engineering Training
Hay Bunder Road,
Bombay.

... Respondents.

(By Advocate Shri R.K.Shetty, CGSC).

O R D E R

(Per Shri B.S.Hegde, Member(J))

Heard Shri M.S.Ramamurthy, counsel for the applicants and Shri R.K.Shetty, counsel for the Respondents.

2. The applicants have filed Contempt Petition Nos.125/95, 133/95, 126/95, 131/95 and 152/95 in Original Application Nos.108/95, 464/95, 466/95, 467/95 and 507/95 respectively, against the order of the Tribunal dt. 12.6.1995. Since similar issues were involved in all the above Original Applications, they were disposed of by passing a common order.

3. The brief facts were that as per the statutory requirement of the Official Languages Act the posts were initially created for a period of two years temporarily and appointments of the present applicants were made to those posts w.e.f. 26.7.1993. They were continued in the post by an interim relief granted by this Tribunal. The learned counsel for the applicants vehemently urged that the power of the appointing authority i.e. D.G.Shipping, does not cease and further extension can be granted in respect of the posts which have been created. The Respondents have already made proposals for extending the period during which the posts should be in existence.

The learned counsel for the Respondents submitted that the appointments will have to be made in pursuance of selections made by the Staff Selection Commission (SSC) and not by any other source. After hearing both the parties, it was observed that the contention of the applicants ^{is} that the process of selection had already been adopted by the respondents while appointing the applicants who were sponsored by the Employment Exchange. However, the Tribunal had observed that it is not the manner in which regular appointments are contemplated. Having regard to this, we do not think that the applicants have a right to continue in the post and have a right to hold the posts which are non-existing. During the course of hearing the Tribunal has been told that a scheme has already been framed **for the four** categories other than Typists by the Ministry of Personnel and Public Grievances and such a scheme may also be framed covering the posts of Hindi Typist. If the SSC delays **in making** appointments, the respondents to consider relaxation of the age of the applicants to the extent of the period for which they were working as Hindi Typists which would serve the purpose. This observation was made because in the appointment letter it **is** stipulated that the candidate appointed will not be permitted to seek employment elsewhere. Therefore, the Tribunal granted relaxation of age. Further, it was observed that ad hoc appointment or regular selection which may be made by the SSC will be,

subject to the applicant's applying for the posts **and** their being considered for regular selection.

The interim order granted earlier on 3.2.95 stands modified and the C.As were disposed of.

4. The main contention of the applicants in the C.P. is that the Tribunal directed them to appoint the applicants as Hindi Typists against the regular posts, their services have been terminated and **are** Hindi Typists posts **are** required to be operated according to the statutory rules. The case of the applicants were required to be referred to SSC for being examined in a Special Qualifying Examination with the age relaxation and they should be appointed as Hindi Typists on ad hoc basis if she/he applies for the same.

5. The main thrust of arguments of the learned counsel for the applicants is that they should be taken on ad hoc basis till their services are regularised. Though they made a representation, the respondents vide their letter dt. 14.8.1995, stated that the posts in question are required to be filled in through the SSC as and when the vacancies are advertised **then they** made representation and sent legal notice and the respondents in reply stated that they have granted benefits to their clients in respect of age relaxation to the extent of the period for which they were working as Hindi Typists for the issue of certificate for

them as Hindi Typists. The stand of the respondents is that the applicants were appointed temporarily for a period of two years and it is not within the rights of the D.G. Shipping to extend the period of appointment who is not empowered to do so and further the implementation of the Official Language Policy is a policy decision matter which cannot be agitated before the Tribunal, since no one is appointed on a permanent basis and the Tribunal did not direct to take them on ad hoc basis. As a matter of fact, the interim order passed earlier stands modified by **further** the Tribunal **and** it was clearly observed that the applicants did not have a right to continue in the post and have a right to hold the posts which are non-existing. Therefore, the question of any contempt does not arise. The Department of Personnel vide its letter dt. 18.12.1995 made it quite clear stating that they do not have powers to hold special qualifying examination for regularisation of ad-hoc LDCs/Stenographers. In fact, even the earlier examination held in 1993 laid down specific condition that only **those** ad-hoc appointees who have been appointed against regular vacancies would be eligible to appear in the Special Qualifying Examination. In the present case, since it is not clear whether the posts against which these ad-hoc appointees were continuing are still available or not, if they are

not regular vacancies likely to be continued indefinitely, then the question of framing a similar scheme does not arise. If the Ministry of Surface Transport has intimated any vacancy(s), then the applications of these individuals may also be forwarded for consideration by the SSC by giving appropriate age relaxation. It is not the case of the applicants that the SSC has initiated the appointments and their case has not been considered. As and when the SSC recruits people, it is for the respective applicants to apply for the same, but under the circumstances they can seek relaxation of age in view of the specific clause enumerated in the appointment letter that they shall not seek appointment elsewhere, that is why the relaxation of age has been granted by the Tribunal and nothing more. The applicants have not made out any case for separate C.P. though all the OAs are combined together and disposed of simultaneously. All these applicants have been appointed on ad-hoc and temporary basis and their services have been terminated in terms of the appointment

6. In the result, we do not find any merit in the C.P.s. and the same are dismissed as devoid of merits and no order as to costs.

dt 27/9/96
order/Judgement despatched
to Applica. Unit (8)
on 3/10/96
06 6/10/96 in 6A108145
07/10/96