

**CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,**  
**JABALPUR**

**Original Application No. 1167 of 2004**

Indore, this the 17<sup>th</sup> day of Nov. 2005

Hon'ble Shri M.P. Singh, Vice Chairman  
Hon'ble Shri Madan Mohan, Judicial Member

Smt. Sulochana Nair, W/o. Shri C.  
Raghvan Nair, Aged 43 years,  
Occupation – Stenographer Grade II,  
Office of the Commissioner of Income  
Tax Computer Operation, Bhopal (MP). .... Applicant

(By Advocate – Shri A.S. Rathore on behalf of Shri K.N. Gupta)

**V e r s u s**

1. Union of India, through Secretary,  
Ministry of Finance (Deptt. of  
Revenue), New Delhi.
2. The Chief Commissioner of Income Tax,  
Aaykar Bhawan, Hoshangabad Road,  
Bhopal (MP).
3. The Chief Commissioner of Income Tax,  
Cadre Controlling Authority, Bhopal  
(MP).
4. The Commissioner of Income Tax,  
Computer Operation, Bhopal (MP).
5. The Staff Selection Commission,  
Through the Secretary, Ministry of  
Personnel, Public Grievances Pensions  
(Department of Personal & Training),  
Government of India, Block No. 12,  
Kendriya Karyalaya Parisher, Lodhi Road,  
New Delhi. .... Respondents

(By Advocate – Shri Gaurav Samadhiya on behalf of Shri V.K. Sharma)



## ORDER

**By Madan Mohan, Judicial Member –**

By filing this Original Application the applicant has claimed the following main reliefs :

- “i) the order dated 31.5.2004 (i.e. Annexure P-1) passed by the Chief Commissioner of Income Tax may kindly be quashed,
- ii) the non-applicants may kindly be directed to regularize the services of the applicant from the date of her initial appointment and the services of the applicant may kindly be ordered to be regularized in the case of Ku. Shailaja Sexena.”

2. The brief facts of the case are that the applicant was appointed as Stenographer on temporary and adhoc basis vide order dated 11.1.1993, which was made effective from 13.1.1983. The applicant submitted application for regularization of the services on the post of Stenographer, to the Commissioner of Income Tax, Bhopal. The applicant was permitted to appear in the examination which was conducted by the SSC from 28.7.1985 to 30.7.1985 at New Delhi. The applicant could qualify only for the post of LDC. The Inspecting Assistant Commissioner vide letter dated 19.5.1986 asked the applicant to submit her consent upto 22.5.1986 that whether she is willing to be appointed as LDC in the respondent Department. Prior to the case of the applicant, in the matter of one Ku. Shailja Saxena, Stenographer (OG) who was appointed in the respondent Department on adhoc basis vide memorandum dated 29.4.1980, the Staff Selection Commission agreed and gave permission as a special case for the regularization of her services as Stenographer (OG) in the scale of Rs. 330-560/- with effect from the date of her adhoc appointment. In response to the letter dated 19.5.1986 the applicant sent a representation to the Commissioner of Income Tax, Bhopal (MP) making a request for regularization of her (ad-hoc) services as Stenographer since 13.1.1983 i.e. since the date of her initial appointment, after considering the case of the applicant at par with the said Ku. Shailja Saxena. The Assistant Commissioner, Income Tax, Gwalior vide his letter dated 27.9.1993

informed the applicant about the said scheme and special qualifying examination which was to be conducted by the Staff Selection Commission on 26.12.1993 for the purpose of regularization and further directed to the applicant to submit her application for the same. After appearing in the said examination neither the respondents nor the Staff Selection Commission intimated the applicant about her result for a long time. Therefore the applicant sent a letter dated 10.7.1995 to the Staff Selection Commission and requested to intimate about her result and in response thereto the Staff Selection Commission vide memo dated 21.8.1995 informed the applicant that she has been declared qualified as Stenographer Grade-D and her result has already been setn to her concerned Department. But she was informed that she shall be taken on duty with effect from 6.10.1994 i.e. from the date of her declaring the result by the Staff Selection Commission, New Delhi. After receiving the said memo Annexure A-17 the applicant joined her duties on 24.8.1995 (Annexure A-18). The representation of the applicant Annexure A-21 was dismissed and turned down by the respondent No. 2 on the ground of latches. Again she sent representation dated 15.12.1999 for fixation of her seniority in the cadre of Stenographer Grade-III and for considering her name in the DPC being held for promotion to the post of Stenographer Grade-II (Annexure A-24). She also sent a representation dated 15.1.2001 to the respondent No. 2 for carrying out the necessary correction in the gradation list. All of a sudden the applicant received copy of the order dated 11.1.2002 passed in the matter of one Smt. Usha Rajan, a copy of which has been supplied to the applicant thereby the applicant's request for regularising her services from the date of her initial adhoc appointment has been turned down. The applicant filed a OA No. 421/2002 challenging the action of the respondents. The Tribunal vide its order dated 24.2.2004 directed the respondents to decide the representation of the applicant afresh after considering the directions and provisions of law. The applicant submitted the representation on 19.3.2004 (Annexure A-29) which was rejected vide order dated



31.5.2004 (Annexure A-1). The action of the respondents is against the rules and law. Hence, this Original Application is filed.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that she was initially appointed with effect from 13.1.1983 as Stenographer on temporary and adhoc basis. Prior to the case of the applicant, in the matter of one Ku. Shailja Saxena, Stenographer (OG) who was appointed in the respondents Department on adhoc basis, vide memo dated 29.4.1980 the Staff Selection Commission, New Delhi agreed and gave permission as a special case for the regularization of her services as Stenographer (OG) in the scale of Rs. 330-560/- with effect from the date of her adhoc appointment. But the applicant is not granted the same benefit. Hence, the action of the respondents is of hostile discrimination in the case of the applicant. The applicant submitted several representations. She also appeared in the special examination conducted by the Staff Selection Commission, New Delhi. After appearing in the said examination neither the respondents nor the Staff Selection Commission, New Delhi intimated the applicant about her result for a long time. The applicant sent a letter on 10.7.1995 to the Staff Selection Commission requesting to intimate about her result and in response thereto the Staff Selection Commission, New Delhi vide memo dated 21.8.1995 informed the applicant that she has been declared qualified as Stenographer Grade-D and her result has already been sent to her concerned Department. The Deputy Commissioner, Income tax, Gwalior vide memo dated 22.8.1995 informed the applicant that she has been selected for officiating appointment in a regular temporary vacancy of Stenographer with certain conditions of appointment. If she accepts the conditions then she shall be deemed on duty with effect from 6.10.1994, i.e. from the date of declaration of the result of the said special examination. The learned



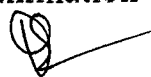
counsel for the applicant submits that the applicant is entitled for regularization of her services with effect from the date of her initial appointment as Stenographer on adhoc basis as is extended in the case of Ku. Shailja Saxena. The respondents have not passed the impugned order dated 31.5.2004 (Annexure A-I) as per directions of the Tribunal passed in OA No. 421/2002. Thus, the applicant is legally entitled for the reliefs claimed by her.

5. In reply the learned counsel for the respondents argued that the applicant appeared in the special qualifying examination held on 1985 by the Staff Selection Commission, New Delhi but she failed to qualify the stenography test and qualified for appointment as LDC. She was asked to give her consent for appointment as LDC. She did not give her consent for appointment as LDC but instead filed a representation dated 19.05.1986 requesting for regularization of her services w.e.f. 13.1.1983 i.e. the date of initial appointment on adhoc basis, in view of the regularization of Ku. Shailaja Saxena. The Staff Selection Commission, New Delhi vide letter dated 17.11.1982 had directed to regularize the services of Smt. Shailaja Saxena as a special case. Thus she was regularized with effect from 6.5.1980 as it was considered as a special case but the same cannot be treated as a precedent for others including the applicant. The list of 23 such similarly placed officials and their present status is placed at Annexure P-I. In 1993 the CBDT vide letter dated 1.9.1993 informed that the DOP&T vide OM dated 2.8.1993 agreed to provide one last chance to all adhoc/daily rated/casual LDCs and Stenographers Grade-III to appear in the special qualifying examination as a one time measure which was to be held on 26.12.1993 for the purpose of their regularization. The applicant appeared in the examination and she qualified for appointment as Stenographer Grade-III. The result was informed vide Staff Selection Commission, New Delhi letter dated 25.1.1995. The date of declaration of the result was 6.10.1994. Hence, the applicant was regularized with effect from 6.10.1994. The case of the



applicant is entirely different from that of Smt. Usha Rajan who had been working as adhoc Stenographer (OG) at Jabalpur since 30.12.1981. Vide order dated 20.10.1983 her adhoc services were terminated. She filed a Writ Petition before the Hon'ble High Court of MP and the Hon'ble High Court quashed the order and the petitioner is deemed to be in service throughout. The representation submitted by the applicant as per directions of the Tribunal was duly considered by the competent authority. The respondents found no merit and the same was rejected by the speaking order dated 31.5.2004 (Annexure A-1). Hence, the action of the respondents is perfectly legal and justified.

6. After hearing the learned counsel for the parties and careful perusal of the pleadings and records, we find that the argument advanced on behalf of the applicant is about the hostile discrimination done by the respondents between her case and of Smt. Shailja Saxena. We find that the Staff Selection Commission, New Delhi vide letter dated 17.11.1982 had directed to regularize the service of Smt. Shailja Saxena as a special case. Thus she was regularized with effect from 6.5.1980 as per letter dated 15.12.1982. The respondents have filed a list of 23 such similarly placed officials with the reply and out of this 18 officials have appeared in the special qualifying examination held in various years and have got themselves regularized either in the cadre of Stenographer Grade-III or LDC according to their passing the special qualifying examination. We further find that the Government has vested powers to regularize the rules in certain case. We also find that the case of the applicant is entirely different from that of Smt. Usha Rajan who had been working as adhoc Stenographer (OG) as when her services were terminated vide order dated 20.10.1983 she approached the Hon'ble High Court of Madhya Pradesh and the Hon'ble High Court quashed and set aside the termination order and directed that the petitioner is deemed to be in service throughout. This is not the case in the present Original Application. The applicant was declared successful in the special qualifying examination on 6.10.1994



and hence she has been regularized with effect from 6.10.1994. The DOP&T in OM dated 2.8.1993 has directed as under :

“Those who qualify in the special qualifying examination will be regularized from the date of announcement of result of the special qualifying examination by the commission in the same post and in the same office in which they are working. They will be placed in the seniority list of LDCs or Stenographers Grade-III/D, as the case may be, en-bloc junior to the candidates appointed to such posts in the respective offices on the results of the last competitive examination of LDCs/Stenographers Grade-III/D held prior to this examination. The results of the last Clerk Grade examination, 1992 was declared on 22.12.1993 and the regular Stenographers Grade ‘D’ Competitive examination, 1993 was declared on 6.5.1994.”

Thus the respondents have rightly regularized the applicant with effect from 6.10.1994 i.e. the date of declaration of the result.

7. Considering all the facts and circumstances of the case we are of the considered view that the action of the respondents is perfectly legal and justified. Hence, this Original application is liable to be dismissed as having no merits. Accordingly, the same is dismissed. No costs.

(Madan Mohan)  
Judicial Member

  
(M.P. Singh)  
Vice Chairman

"SA"

पृष्ठांकन सं ओ/न्या..... जवलपुर, दि.....

पलिलिपि तबको थिल:-

(1) सचिव, उच्च न्यायालय, काठमाडौं, जवलपुर

(2) आदेशपत्र, जिल्ला न्यायालय, काठमाडौं, जवलपुर

(3) प्रत्यक्षी श्री/श्रीमती, ..... के काउंसिल

(4) बन्धुबान, कोषाञ्ज, जवलपुर जिल्ला

सचना एवं आवश्यक कार्यवाही हेतु

K. K. Gupta } Dr  
D. K. Sharma } Geo

Israel  
23/11/05