

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 529 of 2003

Jabalpur, this the 12th day of August, 2003.

Hon'ble Mr. J.K. Kaushik, Judicial Member
Hon'ble Mr. Anand Kumar Bhatt, Administrative Member

Smt. Pratiksha Shukla, wife of
Shri Nagendra Shukla, aged about
42 years, R/o Janki Awasiya Parishar,
Janki Nagar, Block No. 6, Jabalpur

APPLICANT

(By Advocate - Shri R.K. Gupta)

VERSUS

1. Union of India, through Secretary
Department of Environment, Forest
and Wild life, Government of India,
Central Government Offices Complex,
R Block, Phase No. 2, Lodhi Road,
New Delhi.

2. Director, zoological Survey
of India, 535, M. Block, New
Alipur Kolkata- 53.

3. Deputy Director and Officer
Incharge Zoological Survey of
India, Central Regional Station
424, New Adarsh Colony,
Near Labour Chowk, Kamla Nehru
Nagar, Jablpur.

RESPONDENTS

O R D E R

By J.K. Kaushik, Judicial Member :-

Smt. Pratiksha Shukla has filed this Original
Application under Section 19 of the Administrative
Tribunals Act and she has sought the following reliefs.

(i) The Hon'ble Tribunal may be pleased to
quash the impugned order dated 16/26th
December 2002 vide Annexure A-8 in the
interest of justice.

(ii) The Hon'ble Tribunal further be pleased to
direct the respondents to give the benefit
of the A.C.P. Scheme by giving her the
higher pay scale immediately after completion

of 12 years of service from the date of first appointment of the applicant, i.e. 8.10.1984

(iii) The Hon'ble Tribunal may be pleased to direct the respondents to fix the seniority of the applicant by counting the ad hoc services which has followed by the regularisation and also to correct the seniority list of L.D.Cs and further be pleased to direct for giving all consequential benefits.

2. The brief facts of this case which are the necessary for resolving the controversy involved, are that the applicant was initially appointed to the post of Lower Division Clerk on 18.10.1984. She was appointed against the substantive vacaney after herdue selection and sponsoredship through employment exchange. The appointment was on ad hoc basis and she was given regular increment without any interruption at any occasion. Her service was sought to be terminated and she challenged the same before this Bench of Tribunal. Her case was decided on 15.11.89, with a direction to respondents to contiune her service.

3. It has been further averred that she was directed to appear in the qualifying examination and she qualified the same in 1993, and therefore she was regularised with effect from 8.6.93. Once ad hoc appointment is followed by regularisation, the ad hoc service of the employee cannot be ignored, while counting the service of employee as per the various judgments of the courts. Thus, she would be entitled to be placed along with the persons those who are appointed on 18.10.84 and onwards i.e. after her regularisaion in the seniority list (Annexure A/5). She submitted the representation to the competent authority and requested for assigning her seniority from her initial date of appointment. She has also submitted a representation for grant of benefit of ACP scheme on completion of 12 years of service from the date of initial appointment.

The same has been rejected vide impugned order (Annexure A/8) on the ground that she has not completed 12 years of service on regular basis. The original Application has been filed on nubers of grounds mentioned therein.

4. We have heard the learned counsel for the applicant at length at admission stage and have very carefully the considered the submisions, pleadings and records of the case.

5. The learned counsel for the applicant has reiterated the facts and grounds mentioned in the original Application. He has endeavoured to pursuade us that the applicant was selected to the post of LDC and there was nothing required to be done further regarding her appointment. Her ad hoc appointment has been continued without any interruption and her ad hoc service is followed by regularisation. Thus as per the various judgements especially the judgement at(Annexure A/4), the applicant is entitled to get seniority from the date from which she was initially appointed. After grant of due seniority she is entitled for grant of benefit under the ACP scheme. But, the claim of the applicant has been ignored without any reason, and rythem. It is also submitted that the applicant passed the special Commission qualifying examination which was held by the staff Selection in the year 1993 and she has been duly regularised thereafter.

6. We have considered the submissions made by the learned counsel for the applicant. By now the law is well settled in regard to the assignment of seniority in cases where an ad hoc appointment is followed by regularisation. The well settled decision on this point was delivered by the Hon'ble Supreme Court in case of

Direct Recruit Class II Engg. Officers Assn. v. State of Maharashtra (1990) 2 SCC : 1990, wherein it has been held that the appointment made after following recruitments rules and where nothing remains to be done i.e. one is appointed on ad hoc basis after due process of recruitment and regularised without any interruption, the ad hoc period otherwise not. shall be count in seniority & /We find support of aforesaid proposition of the law from a very recent judgement of Hon'ble Supreme Court in MD. Israils and others Vs. State of W.B. and Others recorded 2002 SCC page 294 wherein there was a condition that one was to pass the examination conducted by the Public Service Commission and the employees were kept for ad hoc period for 6 years. They have been held entitled for seniority from the date they have cleared the examination which was conducted by the Public Service Commission, said decision squarely covers the controversy involved in the present case as indicated hereinafter.

7. Now adverting to the facts of the present case and applying the aforesaid dictum to the same, in the present case, the applicant was subjected to a test and appointed on ad hoc basis/born out of the records for the ad hoc appointment to the post of L.D.C. One is required to clear examination which is to be conducted by Staff Selection Commission and the said examination was cleared by the applicant in the year 1993. Therefore, as per the recruitment Rules the applicant become eligible for regular appointment to the said post only in the year 1993. Thus the inescapable conclusion is that the ad hoc appointment of the applicant was not made by following the due process of selection which is required for regular appointment and his appointment was only made on ad hoc basis as stop gap arrangement. Since the applicant has fulfilled condition of the recruitment

and undergone the process of the selection only in the year 1993 when she passed the examination conducted by the Staff Selection Commission, she can get seniority only from the date when she passed the requisite selection which was a pre-condition for regular appointment. Since she has fulfilled the necessary condition only is the year 1993, she is entitled for the seniority from 1993 which has been already given to her. In this view of the matter we do not find any infirmity or arbitrariness in the action of the respondents and interference is called from the Tribunal in the instant case.

8. The upshot of the aforesaid discussion is that the original Application is devoid of any merit or substance. The same stands dismissed in limine at admission stage itself.

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

J.K. Kaushik
(J.K. Kaushik)
Judicial Member

पूर्णांकन सं. औ/नं. जबलपुर, दि.
प्राप्ति दिन: १५/११/२००३:-

- (1) सतीष, अम. १२, निवास, निवास, जबलपुर
- (2) रामेश्वर, वी. १०२, निवास, निवास, जबलपुर
- (3) रम. ११, वी. १०२, निवास, निवास, जबलपुर
- (4) विश्वास, कैप्ट. अ., जबलपुर, निवास

सूचा एवं आवश्यक कागदोंही हैं।

A. K. Gupta, A.C.
उप रजिस्ट्रर १५/११/०३

*Issued
On 15.11.03*