

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING AT GWALIOR

Original Application No. 421/2002

Gwalior, this the 24th day of February, 2004

Hon'ble Shri M.P.Singh, Vice Chairman
Hon'ble Shri G.Shanthappa, Judicial Member

Smt. Sulochana Nair
w/o Sh. C.Raghvan Nair
Aged 41 years
Occupation - Stenographer Gr.III
Office of the Additional Commissioner
of Income Tax (Range-III)
Gwalior (MP).

...Applicant

(By Advocate:- Shri K.N.Gupta)

-versus-

1. Union of India through
Secretary,
Ministry of Finance,
(Dept. of Revenue)
New Delhi.
2. The Chief Commissioner of Income Tax
Aayakar Bhawan, Hoshangabad Road,
Bhopal (MP).
3. The Chief Commissioner of Income Tax
Cadre Controlling Authority,
Raipur (Chhattisgarh).
4. The Additional Commissioner of Income Tax
(Range-III), Gwalior (MP).
...Respondents

(By Advocate: Shri P.N.Kelkar)

ORDER (ORAL)

By G.Shanthappa, Judicial Member -

The above O.A. has been filed by the applicant
seeking the following reliefs:-

1) To quash the impugned order dated 11.1.2002
passed by the A/1) and to regularise the services
of the applicant from the date of her initial
appointment i.e. 13.1.1983;

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ii) to direct the respondents to consider the case of the applicant at par with Ku. Shailaja Saxena for regularisation from the date of her initial appointment;

iii) to direct the respondents to decide the representation of the applicant in respect of fixation of her seniority, correction of gradation list of Stenographer Gr.III and for considering the name for D.P.C. for promotion on the post of Stenographer Gr.II forthwith.

2. The brief facts of the case are that the applicant is holding the post of Stenographer Gr.III. She was appointed on ad hoc basis on 11.1.1983. The applicant had submitted her representation for regularisation of her services on the post of Stenographer on 19.5.1986 (A/8). Since no action has been taken by the respondents on her representation, she had approached this Tribunal for grant of relief.

2.1 On 22.8.1995 the applicant was informed that she has been selected for officiating appointment in a regular temporary vacancy of Stenographer with certain conditions of appointment. It was further informed to the applicant that if she accepts the said offer on certain conditions of service, details of which were already given in the Memorandum, she shall be deemed on duty w.e.f. 6.10.94 i.e. from the date of qualifying the special examination, as regular Stenographer-III. After receiving the said Memorandum, the applicant joined her duties w.e.f. 24.08.1995. Thereafter the regular appointment order of the applicant was issued by the Deputy Commissioner of Income Tax, Gwalior Range and she has been regularized on the post of Stenographer Gr.III w.e.f. 6.10.1994. The Central Board of Direct Taxes issued a circular dated 6.4.1993 by which the authorities have to consider the regularisation of the services of ad hoc Stenographers Gr.III/L.D.Cs and in reference to the said circular the applicant sent her representation to the Chief Commissioner of Income Tax, Bhopal for re-fixing the

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applicant's seniority in the light of the said CBDT's circular dated 6.4.1993, which was rejected by the respondents on the ground of latches.

2.2 The applicant again submitted one more representation to the respondent no. 2 for fixation of her seniority in the cadre of Stenographer Gr.III and for considering her name in the D.P.C. being held for promotion to the post of Stenographer Gr.II. No action has been taken on the said representation of the applicant. Hence, due to inaction on the part of the respondents in not deciding the representations of the applicant in respect of fixation of her seniority, correction in the gradation list and for considering the name of the applicant in the DPC for promotion on the post of Stenographer Gr.II, the applicant shall not get the promotion on the post of Income Tax Inspector well within time as her per/seniority ~~is~~ inspite of having passed the departmental examination for the same. Ultimately, the respondents have decided the case of the applicant and rejected on the ground that in the matter of one Smt. Usha Rajan, the request of the applicant for regularisation of her service from the initial ad hoc appointment has been turned down. Aggrieved by the said order, the applicant has filed this O.A.

2.3 The case of the applicant is that since she has already passed the ^{special} ~~the~~ said departmental examination in the year 1993 the respondents are not supposed to direct the applicant to take another special examination. Hence, the respondents have not properly decided the representation. Accordingly, the impugned order is illegal and is liable to be set aside.

3. The respondents have filed their reply denying the averments made in the O.A. Their specific stand is that the case of the applicant is different from Smr. Usha Rajan. Hence the representation of the applicant has been properly decided by the competent Authority, ^{as} another ground taken by the respondents is that the application is barred by limitation.

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on the ground that cause of action has arisen to the applicant in the year 1999 but she has not filed any MA for condonation of delay. The further contention of the respondents is that the representation at Annexure A-8 dated 19.5.1986 has no relevance, after her appearing in and passing of the qualifying examination for Stenographer Gr. III in 1993. The claim and representation of the applicant for regularisation and fixing of her seniority stood finally decided vide Annexure A/23 dated 8.12.1999. The correction of gradation list has no merit and it is also stood decided by the authority on 8.12.1999. Therefore there is no question of further taking the decision on the issue. The OLA. is liable to be dismissed on the ground of limitation as, representations do not extend the limitation for approaching this Tribunal.

3. We have heard the learned counsel for the parties and have perused the material available on record.

4. After addressing the arguments at some length, the learned counsel for the applicant requested that if the Tribunal permits the applicant to file a fresh representation in pursuance to the order passed by the authorities as per Annexure A-1 dated 11.1.2002 with ^a directions to the respondents to decide the same by referring the judgement of this Tribunal passed in OA No. 397/96 alongwith judgement of the Hon'ble Supreme Court rendered in the matter of The Direct Recruit Class-II Engineering Officers' Association and others vs. State of Maharashtra and Ors., reported in AIR 1990 SC 1607. The learned counsel for the applicant has pointed out, that since the applicant has already passed the special examination, the observation made in the impugned order that she has to attend another special examination and also they have referred that the Stenographers who have submitted representations on the above issue, the said representation has been rejected. While rejecting the earlier representation of the applicant the

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respondents have not assigned any reason. Therefore, the applicant wants to make one fresh representation.

4.1 The learned counsel for the respondents has submitted that since the respondents have already decided this aspect and rejected the claim of the applicant by passing A/23 dated 8.12.1996, there is no need to decide the said issue once again. Accordingly, the relief, as prayed for by the applicant, cannot be granted.

5. In the facts and circumstances of the case, we deem it appropriate that ends of justice would be met if we direct the applicant to make her fresh representation to the respondents i.e. competent authority by submitting the judgements of this Tribunal and of Hon'ble Supreme Court, as referred to above, within a period of one month from the date of receipt of a copy of this order and if the applicant complies with the above direction, the respondents are directed to consider the representation of the applicant and pass a speaking, detailed and reasoned order on the said representation within a period of three months from the date of receipt of such representation. We do so accordingly.

6. With the above directions, the O.A. is disposed of. No cost.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice Chairman

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