

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 2883/2015
With
OA No. 2891/2015

New Delhi this the 16th day of September, 2016

Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agarwal, Member (J)

OA No. 2883/2015

1. Himanshu Prabhakar,
S/o Hem Kant Jha Himanshu,
Age-31 years,
Address: 13/477, Lodhi Colony,
New Delhi-110003
2. Awanish Kumar Mishra
S/o Virndavan Mishra,
Age-31 years,
Address: D-242/7, Om Nagar, Badarpur,
New Delhi-110044
3. Chaitali Dua,
D/o, Krishan Lal Dua,
Age- 32 years,
Address: H-120A, Shivaji Park,
West Punjabi Bagh, New Delhi-110026
4. Jyoti Prakash Singh,
S/o D B Singh,
Age- 29 years,
Address: 3-A, Second Floor,
Dheerpur, New Delhi-110009
5. Jaiveer Kumar,
S/o Sudan Sah,
Age- 25 years,

Address- H.N.395, Indra Vihar,
near DU Girls Hostel,
Mukherjee Nagar, New Delhi

6. Nutan Kumari,
C/o Krishna Deo Prasad, Age 30 years,
Address- Swati Hostel, Mandir Marg, New Delhi
7. Md Faiyaz Aazam,
S/o Md Salem,
Age 29 years,
Address- 31/3, First Floor,
Indra Vikas Colony, New Delhi-110009
8. Ashish Kumar Verma,
S/o, Naresh Chand Verma
Age- 35 years,
Address: A-2, Shiv Vihar,
Shalimar Garden, Extn.II,
Sahibabad, Gaziabad, Uttar Pradesh
9. Saurabh Mukherjee,
S/o Somenath Mukherjee,
Age- 30 years,
Address- A-62, Second Floor,
Majlis Park, Adarsh Nagar, New Delhi
10. Jyoti Ranjan,
S/o Ram Vinay Sharma,
Age- 31 years,
Address-QU Block, 161 C,
North Pitampura, New Delhi-110088
11. Swarna Kamal Garg,
S/o Gyan Prakash Garg,
Age- 31 years,
Address- E-13, Second Floor,
Nehru Vihar, New Delhi
12. Krishna Kant
S/o Suresh Prasad,
Age- 30 years,
Address- 108-B, First Floor,
Munirka Village, New Delhi-110067

13. Deepak Shaw
S/o Chabhu Lal Shaw,
Age- 29 years,
Address-B-245, Third Floor,
Nehru Vihar, New Delhi
14. Raman Khanna
S/o A L Khanna,
Age- 29 years, Address- A-4/11,
Krishna Nagar, Delhi-110051
15. Shubham Bhardwaj
S/o Mohan Lal Sharma,
Age-28 years,
Address- 456, 12 B, Street No.14,
Vijay Park, Delhi-110053
16. Shailender Kaushik,
S/o Mahavir Prasad Sharma,
Age- 30 years,
Address-A-603, Maharani Appartment,
Plot No.15B, Sector-22,
Dwarka, New Delhi-110077
17. Shyam Pratap Mishra,
S/o Bharat Mishra,
Age- 29years,
Address- H.N.450/6, Laxmi Vihar,
Gali No.3, New Delhi
18. Aman Kumar,
S/o Ashok Kumar,
Age- 28 years,
Address-2129/5, Pech Paras Ram,
Old Anaj Mandi, Rohtak-124001
19. Surender Kashyap,
S/o, Abhay Shankar Kashyap,
Age- 31 years, Address-R.N.8,
H.N.327, Dhadhan Muhalla,

Badarpur, Delhi-110044

20. Gopal Singh,
S/o Kalyan Singh,
Age- 30 years,
Address -H.No.79,
Main Road Dayalpur, Delhi-110094
21. Vikas Prasad,
S/o Jayant Prasad,
Age- 34 years,
Address-Pocket-3,
Second Floor, Rohini,
Sector-24, New Delhi
22. Rakesh Ranjan,
S/o Birendra Prasad,
Age- 35 years,
Address-106 C,
CD Block, Pitampura,
New Delhi-110034
23. Ankur Agrawal,
S/o Kashi Ram Agrawal,
Age-27 years,
Address-H.N.137, First Floor,
Pocket-16, Rohini Sector-24, Delhi- 110085
24. Vinay Kumar,
S/o Satyapal Singh,
Age-30 years,
Address-J-200, Sector-41, Noida-201301
25. Surender Sharma
S/o Late Rajender Sharma,
Age-32 years,
Address-408/33, Onkar Nagar/B,
Trinagar, Delhi-110035
26. Pawan,
S/o Virender Singh,

Age- 28 years,
Address-H.No.193, Police Colony, H Block,
Ashok Vihar, Phase-I, Delhi-110052

27. Shantanu Bhattacharjee,
S/o Sushil Bhattacharjee,
Age- 29 years,
Address-Q.No.1942,
Laxmibai Nagar, New Delhi-110023

28. Debala Bhattacharjee,
D/o Khagendranath Joarder,
Age- 29 years,
Address-Q.No.1942,
Laxmibai Nagar, New Delhi-110023
29. Pankaj Kumar,
S/o Prakash Gupta,
Age-34 years,
Address-25-B, Second Floor,
Pocket-A, Hari Nagar, Delhi-110064
30. Manoj Prasad Gupta,
S/o Binod Prasad Gupta,
Age- 28 years,
Address-QU Block, 161-C,
North Pitampura, New Delhi-110088
31. Sachin Vashisth,
S/o O V S Vashisth,
Age-31 years,
Address-C-51, Milan Appartments,
West Enclave, Pitampura, Delhi-110034
32. Srikant Singh Kushwaha,
S/o Prakash Mahto,
Age- 24 years,
Address- H.No.107, Second Floor, Gali No.19,
Vipin Garden Extension,
Uttam Nagar, New Delhi-110059
33. Tezveer Singh,
S/o Hem Singh,
Age- 29 years,
Address-D-31, Ganesh Nagar,
Pandav Nagar Complex,
New Delhi- 110092
34. Pankaj Kumar Jha,
S/o Amar Nath Jha,
Age - 30 years,

Address - A-9, Shivaji Vihar,
Janta Colony, Rajouri Garden, New Delhi

35. Ravi Ranjan,
S/o Ram Lagan Singh,
Age - 26 years,
Address- H.No. 36, Gali No. 10,
South Anarkali Ext.,Near Mother Dairy,
Preet Vihar, New Delhi
36. Premchand Pandit,
S/o Mahabir Pandit,
Age -32 years,
Address- H. No. 4, Gali No. 4, Ist Floor,
Near Balaji Mandir,
Wazirabad Village, New Delhi
37. Kumar Rajiv Ranjan
S/o Ram Swarup Singh,
Age - 36 years,
Address- Quarter No. 44-A,
Sector-4, Pushp Vihar New Delhi-17
38. Jainul Abadin
S/o Mahmud Ali Ansari,
Age - 28 years,
Address - 390, Parmanand Colony, New Delhi
39. Dharmendra Kumar Sinha,
S/o Rabindra Kumar Sinha,
Age - 27 years,
Address - 390, Parmanand Colony, New Delhi,
40. Satish Kumar Singh
S/o Janardan Singh,
Age - 30 years,
Address - 538, Kotla Vihar Phase-II,
Nagloi-Najafgarh Road,
Nangloi, New Delhi-43
41. Praveer Bisht S/o Gopal Singh Bisht ,
Age - 29 years,
Address - 1291, Type-IV, Sector-12,
R.K. Puram, New Delhi-110022

42. Suneet Kumar Dwivedi, .
S/o Bradley Shyam Dwivedi,
Age - 29 years,
Address- H.No.-18, 2nd Floor,
Swarg Ashram Colony, GTB Nagar, New Delhi-09
43. Devendra Chaudhary,
S/o Gajraj Singh,
Age- 30 years,
Address- V- 692, Street No. – 11,
Vijay Park, Maujpur, Delhi - 110053
44. Sujeet Kumar, S/o Uday Kumar,
Age - 29 years,
Address - M2C A-4, Shalimar Garden, Ext.
2, Sahibabad, Ghaziabad, U.P.
45. Pankaj Kumar Sinha,
S/o Arjun Prasad,
Age - 27 years,
Address - H.No.-644, Paramanand Colony (West),
Mukherjee Nagar, New Delhi-09
46. Mahesh Lal
S/o Sukhan Lal Bishwas,
Age - 35 years,
Address-H.No. E-47, 2nd Floor,
Front Side, Bishwas Park,
Uttam Nagar, New Delhi-59
47. Krishna Kumar,
S/o Baijnath Prasad,
Age - 28 years,
Address - H.No. E-47, 2nd Floor,
Front Side, Bishwas Park, Uttam Nagar, New Delhi-59,
48. Ankit Kumar,
S/o Arvind Kumar Tripathi,
Age - 28 years,
Address - H.No.-644 (3rd Floor),

Paramanand Colony (West),
Mukherjee Nagar, New Delhi-09,

49. Om Kumar,
S/o Mahendra Prasad,
Age - 31 years,
Address - 348-B, 3rd Floor,
Near Kali Mandir, Sakarpur School Block,
Opp. Laxmi Nagar, New Delhi-110092
50. Bhardwaj Yukti Narender,
D/o Narender Kumar Bhardwaj,
Age - 28 years,
Address - B-302, Chitrakut Society,
Plot No.-9, Dwarka, Sector-22, New Delhi
51. Vikash Khichi,
S/o H.P. Khichi,
Age - 32 years,
Address - 3rd Floor, R-75B,
Khirki Extension, New Delhi-110017
52. Deepak Nagpal,
S/o O.P. Nagpal,
Age- 29 years,
Address - 71, Rajdhani Enclave,
Pitampura, New Delhi-110034,
53. Jetendra Kumar Bairwa,
S/o Ramphool Bairwa,
Age - 28 years,
Address - B-328, Sangam Gali,
New Ashok Nagar Metro Station, New Delhi
54. Vishal Gupta,
S/o Chandra Shekhar Gupta,
Age - 32 years,
Address - 705L1/A, Radhakrishna Appartment,
Flat No. 03, Mehrauli Ward No.-03,

New Delhi-110030

55. Abhishek Chaturvedi,
S/o Arun Kumar Chaturvedi,
Age - 31 years,
Address - H.No. 468, Third Floor,
Gali No. 02, Majlis Park,
Adarsh Nagar, Delhi-110033
56. Ravi Ranjan,
S/o Late Prakash Prasad,
Age - 30 years,
Address - WZ 1486 B, Ist Floor,
Rani Bagh, New Delhi 110034,
57. Ravi Kumar,
S/o Hari Prasad Sahu,
Age - 31 years,
Address - H.No. 36, Street No. 10,
South Anarkali Extension,
Near Mother Dairy,
Baldev Park, New Delhi - 110051,
58. Vikash Kumar,
S/o Gangeshwar Prasad,
Age - 29 years,
Address - H.No. 131, Room No. 119,
Munirka Village, South West Delhi,
New Delhi-110067
59. Agam Kumar,
S/o Rajendra Prasad Sinha,
Age - 30 years,
Address - H.No.48, 2nd Floor ,
Bhai Parmanand Colony, Delhi-110009,
60. Chandan Kumar,
S/o Dinesh Prasad Singh,
Age - 33 years,
Address - H.No. 11/4, Church Road,

Jungpura, Bhogal, New Delhi-110014,

61. Satish Kumar Singh,
S/o Birchandra Prasad Singh,
Age - 31 years,
Address - Khasra No. 37/8, Gali No. 15,
Near Panchsheel Ashram,
Jharoda Majra, Delhi - 110084
62. Anupma Kumari,
D/o Umesh Chandra Prasad,
Age - 29 years,
Address - U-205, Ground Floor,
Shakarpur, Delhi - 110092

63. Pankaj Kumar,
S/o Umesh Chandra Prasad,
Age - 26 years,
Address - U-205, Ground Floor,
Shakarpur, Delhi – 110092
64. Inderpreet Singh Kohli,
S/o Amarjeet Singh Kohli,
Age - 29 years,
Address - H.No. 395, Indra Vihar,
Mukherjee Nagar, New Delhi – 110009
65. Suidigwangbe Hau,
S/o Lungyichube Hau,
Age - 33 years,
Address - 40-41, B- Block,
Nehru Vihar, Delhi - 110054
66. Niranjan Kumar Choudhary,
S/o Bhubneshwar Choudhary,
Age - 32 years,
Address - RZ-D2,
34A, Binod Puri, Vijay Enclave,
New Nawada Metro Station,
Uttam Nagar, New Delhi
67. Devanshu Kumar,
S/o Shambhoo Prasad,
Age - 28 years,
Address- H.No. 964, Ground Floor,
Mukherjee Nagar, Delhi- 110009
68. Vivek Kumar Mishra,
S/o Janardan Mishra,
Age -32 years,
Address - Flat No. 6, C-95,
Shalimar Garden Ext. – II,
Sahibabad, Ghaziabad, U.P.

69 Amit Kumar Jha
S/o Bhageshwar Jha
R/o B-97, II Floor, Nehru Vihar
...Applicants.

70 Dheeraj kumar
S/o Sh. Shyam Bihari Singh
Age 37 years
R/o 17 D, Sector 4, Pushp Vihar, New Delhi

(By Advocate: Shri Akhand Pratap Singh)

Vs.

1. Union of India
Through Secretary,
Department of Personnel & Training,
North Block, New Delhi-110001.

2. Union Public Service Commission
Through Secretary,
Shahjahan Road, Dholpur House,
New Delhi.

...Respondents.

(By Advocate: Shri Hanu Bhaskar, Shri Amit Yadav for Shri
RAvinder Aggarwal and Shri M.K.Bhardwaj)

OA No. 2891/2015

1. Deepak Kumar, S/o Sh. Kishan Chand,
Aged about 32 years,
R/o Village Gizhor, Sector-53, Noida,
Uttar Pradesh, presently working as
Assistant, Room No. 68, Ministry of Steel,
V&R Section, Udyog Bhawan,
New Delhi.
2. Vinita Sinha, W/o Sh. Rajeev Kumar Sinha,
Aged about 36 years, R/o 5/6, Flat No.1-B,
Pragati Apartment, Sector-5, Rajendra Nagar,
Sahibabad, Ghaziabad, Uttar Pradesh,

Presently working as Assistant, Room No. 338,
Ministry of Textiles, Udyog Bhawan, New Delhi.

3. Yashdeep Khare, S/o Sh. K.K. Khare, Aged about 27 years, R/o E-33, B.K. Dutt Colony, Jor Bagh, Lodhi Road, New Delhi, presently working as Assistant, Room No.211, Annexe Building, UPSC, Dholpur House, New Delhi.
4. Sanchit Aggarwal, S/o Late Sh. V.B. Aggarwal, Aged about 27 years, R/o A-1/221, Uttam Nagar, New Delhi,
Presently working as Assistant, Room No. 436 'C', Shastri Bhawan, Ministry of Human Resources Development, New Delhi.
5. Rahul Handa, S/o Sh. K.B. Handa, Aged about 28 years, R/o C-8/559, Sector-8, Rohini, Delhi, Presently working as Assistant, Room No. 465, Ministry of Commerce & Industry, Udyog Bhawan, New Delhi.
6. Md. Reyazuddin, S/o Md. Zafruddin, Aged about 37 years, R/o H.No. B-160, 1st Floor (Backside), Lane No.8, Jamia Nagar, Okhla, New Delhi, Presently working as Assistant, Room No. 414, E.1.B Sector, Exam Branch, New Building, UPSC, Dholpur House, Shahjahan Road, New Delhi.
7. Suman Jakhar, W/o Sh. Vineet Jakhar, Aged About 29 years, R/o H.No. 1007, Sector-28, Faridabad, presently working as Assistant, Directorate of Plant Protection, Quarantine and Research, Old CGO Complex, NH-4, Faridabad.
8. Narender Singh, S/o Sh. Birbal Singh, Aged about 30 years, R/o A-93, Subsh Camp, Dakshinpuri Extension, New Delhi, presently Working as Assistant, Room No. 211, AB, UPSC, Dholpur House, Shahjahan Road, New Delhi.

9. Bhuwan Bhasker Pandey, S/o Sh. Khyali Datt Pandey, Aged about 31 years, R/o G-10, 2nd Floor, Swaroop Park, Lajpat Nagar, Sahibabad, Ghaziabad, Uttar Pradesh, presently working as Assistant, Room No. 396A, Ministry of Steel, Udyog Bhawan, New Delhi.
10. Rajat Mittal, S/o Sh. Shamlal Mittal, Aged about 30 years, R/o 12-A, MIG Flats, Rampura, Delhi, presently working as Assistant, Room No. 31B, Ministry of Finance, Department of Expenditure, North Block, New Delhi.
11. Aditi Bhatia, W/o Sh. Rajat Mittal, Aged about 26 years, R/o 12-A, MIG Flats, Rampura, Delhi, presently working as Assistant, Room No. 16, Ministry of Home Affairs, North Block, New Delhi.
12. Vishwesh Chaturvedi, S/o Sh. S.K. Chaturvedi, Aged About 29 years, R/o E-33, B.K. Dutt Colony, Jor Bagh, Lodhi Road, New Delhi, presently working as Assistant, Room No. 211, Annexe Building, UPSC, Dholpur House, Shahjahan Road, New Delhi.
13. Nikhil Bhatnagar, S/o Sh. R.K. Bhatnagar, Aged about 29 years, R/o 1/4308, Ramnagar Extension, Shahdara, Delhi, working as Regular Assistant in CSS (presently on Deputation as Section Officer in UIDAI), 2nd Floor, UIDAI, Jeevan Bharti Building, Connaught Circus, New Delhi.
14. Satyam Srivastava, S/o Sh. H.R. Srivastava, Aged About 26 years, R/o E-33, B.K. Dutt Colony, Jor Bagh, Lodhi Road, New Delhi, presently working As Assistant, Prime Minister's Office, South Block, Rajpath, New Delhi.
15. Ashish Agrawal, S/o Late Sh. Amod Kumar Agrawal, Aged about 29 years, R/o 1/8, Moulsiri Road, Shipra Suncity, Indirapuram, Ghaziabad, Uttar Pradesh,

Presently working as Assistant, Ministry of Mines,
Mines V. Shastri Bhawan, New Delh.

16. Sajjad Hasan Masood, S/o Sh. Masood Alam, Aged About 29 years, R/o 718, Chirag Delhi, Delhi, presently Working as Assistant, Room No. 402, Ministry of Human Resources Development, C-Wing, Shastri Bhawan, New Delhi.
17. Pawan Kumar, S/o Sh. Madheshwar Dubey, Aged About 32 years, R/o WZ-15B, Second Floor, Possangipur, Janakpuri, Delhi, presently working as Assistant, FT&TR Division, Department of Revenue, 7th Floor, C-Wing, Hudco Vishala Buidling, Bhikaji Cama Palace, New Delhi.

18. Rama Shokeen, W/o Sh. Vanshdeep Solanki, Aged About 27 years, R/o 26, Jupiter Apartment, D Block, Vikaspuri, Delhi, presently working as Assistant, Ministry of Information and Broadcasting, Shastri Bhawan, New Delhi.
19. Vipin Kumar Bhargava, S/o Sh. Raj Kumar Bhargava, Aged about 31 years, R/o Village Rangpuri, P.O. Gurgaon Road, New Delhi, presently working as Assistant, Room No. 304C, Ministry of Human Resources Development, Shastri Bhawan, New Delhi.
20. Sachin Kumar Pareek, S/o Sh. Vanktesh Pareek, Aged about 28 years, R/o E-33, B.K. Dutt Colony, Jor Bagh, Lodhi Road, New Delhi, presently working as Assistant, Cabinet Secretariat, Rashtrapati Bhawan, New Delhi.
21. Amit Kundan, S/o Sh. Harendra Kumar Pandey, Aged about 31 years, R/o C150, New Ashok Nagar, New Delhi, presently working as Assistant, Admn.II Section, UPSC, Dholpur House, Shahjahan Road, New Delhi.
22. Faridulla Sarkar, S/o Sh. Obaidur Rahaman Sarkar, Aged about 28 years, R/o Q.No. 334, C-3 Block, Lodhi Colony, New Delhi, presently working as Assistant, Prime Minister's Office, South Block, Rajpath, New Delhi.
23. Ankur Parakh, S/o Sh. Arun Kumar Parakh, Aged About 28 years, R/o 100-A, Old Gupta Colony, 1st Floor, Krishna Street, GTB Nagar, Delhi, presently Working as Assistant, Room No. 558B, SEZ Section, Department of Commerce, Udyog Bhawan, New Delhi.
24. Hiranmoy Kar, S/o Sh. Himangsu Sekhar Kar, Aged about 30 years, R/o Flat No. 104, Plot No. 179, Mayur Vihar, Phase-I, New Delhi, presently working as Asssistant Prime Minister's Office, South Block,

Rajpath, New Delhi.

25. Pausianmung Hauzel, S/o Sh. Chalau Hauzel, Aged about 30 years, R/o 476, Sector-8, R.K. Puram, New Delhi, presently working as Assistant, Prime Minister's Office, South Block, New Delhi.
 26. Kaustav Nath, S/o Sh. Birendra Kumar Nath, Aged about 29 years, R/o F-141, Moti Bagh, New Delhi, presently working as Assistant, Prime Minister's Office, South Block, New Delhi.
 27. Krishanu Mukherjee, S/o Sh. Kalyan Mukherjee, Aged About 31 years, R/o Flat No. S-10, (Front Right Side), Shakarpur School Block, New Delhi, presently working as Assistant, SBM-I Section, Ministry of Drinking Water and Sanitation, 12th Floor, Paryavaran Bhawan, CGO Complex, New Delhi.
 28. Suchit Goyal, S/o Sh. Subhash Goyal, Aged about 29 years, R/o Flat No. F-54, Sector-22, Noida, presently Working as Assistant, Room No. 332-C, Ministry of Urban Development, Nirman Bhawan, New Delhi.
 29. Balaji N, S/o Sh. Nagendran N, Aged about 29 years, R/o A-164, Moti Bagh-I, New Delhi, presently working as Assistant, Prime Minister's Office, South Block, New Delhi.
- Applicants

(By Advocate: Capt.Karan Singh Bhati)

Versus

1. Union of India through the Secretary, Department of Personnel and Training, Government of India, North Block, New Delhi-110001.
 2. Union Public Service Commission through the Secretary, Dholpur House, Shahjahan Road, New Delhi-110001.
- Respondents

(By Advocate: Shri Hanu Bhaskar, Shri Amit Yadav for Shri Ravinder Aggarwal)

O R D E R (ORAL)

Mr. P.K.Basu, Member (A):

The applicants are Assistants who had come through Combined Graduate Level Examination 2010, result of which was declared on 07.01.2011 and they joined the service thereafter.

2. The applicants had applied through Limited Departmental Competitive Examination (LDCE) for promotion to the post of Section Officer. This examination was held on 07.08.2015 as per the provisions of Rules for Limited Departmental Competitive Examination 2015.

3. The question arose whether the applicants were eligible to appear in this examination as minimum qualifying service as Assistant for taking this examination was five years 'approved service' and on 07.08.2015 the applicants had not completed five years 'approved service' from the date of joining of their service as five years' approved service from the respective year would mean that it would be counted from first of July i.e.

01.07.2011. We had permitted the applicants to appear in the examination with the condition that their result shall be kept in a sealed cover.

4. The applicants have prayed for relief in this OA as follows:

"i) To direct the Respondent No.1 to relax the rules for Combined Section Officers/Stenographers' (Grade B'/Grade-1) Limited Departmental Competitive Examination for the year 2015, issued by the Respondent No.1 dated 21.07.2015 vide no.6/1/2015-CS I (P) to the extent of considering the 'approved services' of the applicants from the year of their direct recruitment examination instead of subsequent year.

ii) To Grant any other relief as may be deemed fit and proper under the circumstances of the case in favour of applicant and against respondent."

5. The applicants have primarily relied upon following documents in favour of their claim:

i) DoP&T Circular dated 25.03.1996 which provides for revision of guidelines for framing/amendment/relaxation of recruitment rules – consideration of seniors in cases where juniors are considered in case of promotion. It is the contention of the applicants that since this is a case of promotion and not direct recruitment, they should be given relaxation as per the above Circular and after this

relaxation the applicants are eligible as all of them have more than two years of approved service.

ii) The applicants further argued that the Regulations provide the power to the Government to relax the eligibility criteria i.e. five years 'approved service', has been done in the case of Stenographers once. In this regard, it is pointed out that the DoP&T vide order dated 22.11.2013 had granted relaxation to the Private Secretaries, who had taken the examination under the CSSS Private Secretary Grade (Limited Departmental Competitive Examination) Regulations, 2010, relevant portion whereof is extracted hereunder:-

"5. And Now, therefore, it has been decided in consultation with the UPSC, as provided under Rule 23 of the Central Secretariat Stenographers' Service Rules 2010, to give one time relaxation in the condition relating to the eligibility criterion of regular Personal Assistants appointed through LDCE, contained in the Regulation 4 (i) of Central Secretariat Stenographers' Service Private Secretary Grade (Limited Departmental Competitive Examination) Regulation, 2010, for appearing in the Private Secretary Grade LDCE, 2012 and 2013 of CSSS. Consequently regular PAs of CSSS appointed through the results of LDCE for the years 2009 and 2010 will be eligible to appear in the Combined Section Officers/Stenographers' (Grade-B/Grade-I) Limited Departmental Competitive Examination

2012 & 2013 (Category —IV, PS Grade of CSSS) respectively to be conducted by UPSC..”

6. It is argued by the learned counsel for the applicants that since the respondents have made the above quoted dispensation, they should not be denied the same benefit.

7. Per contra, learned counsel for the respondents Shri Hanu Bhaskar and the learned counsel for the private respondents Shri M.K.Bhardwaj contend that the DoP&T Circular of 1996 pertains to the case of ‘promotion’ and the present case relates to the LDCE and, therefore, the said Circular will not apply in this case as LDCE is not promotion. It is further argued that the order dated 22.11.2013 of the DOP&T arose out of the reason that there was considerable delay in conducting the LDCE, which, therefore, got badly delayed and hence this was a special one-time measure taken by the Government and it cannot be taken as a precedent to apply in this case.

8. Learned counsel for the respondents further pointed out that the applicants have also not challenged the Rule for Combined SO/CSSS Private Secretary Grade (Limited Departmental Competitive Examination) Regulation, 2010.

9. Learned counsel for the respondents placed a copy of Notification regarding CSS SO Grade (LDCE) Regulations 2010 and stated that these Regulations do not provide for any power to relax the eligibility criteria.

10. We have heard both the learned counsels at length and given our careful consideration to the facts of the case.

11. The fundamental issue before us is that both the applicants and the private respondents are Assistants or in the equivalent grade. The applicants are above the private respondents being direct recruits and the private respondents being promotees. The Regulations *ibid* laid down the minimum eligibility criteria of five years 'approved service' in the Assistant Grade and, therefore, while the juniors qualified having more than five years, the seniors do not qualify because their 'approved service' in the grade of Assistant is less than five years. From the DoP&T Circular of 1996, it becomes clear that in case of promotion the provisions have been made by the Government for relaxation of eligibility criteria of five years 'approved service' in case the juniors are eligible and the seniors are not eligible for promotion. The contention of the

learned counsel for the respondents is that since the word used is 'promotion' clearly it does not include LDCE.

12. On the contrary, the learned counsel for the applicants states that whether it is by means of seniority or seniority-cum-merit or LDCE, the movement of an employee from the level of Assistant to the level of Section Officer would indeed be a 'promotion' as opposed to 'direct recruitment'.

13. We are of the view that the word 'promotion', as mentioned, should be interpreted exactly as intended in the Circular of 1996 i.e. promotion whether on seniority basis or LDCE or otherwise as opposed to direct recruitment. Therefore, we reject this contention of the respondents.

14. As regards the DoP&T order dated 22.11.2013 whereby relaxation has been granted by the Government in the case of CSSS Private Secretary Grade (Limited Departmental Competitive Examination) Regulation, 2010, mere reading of that order would make it clear that the principle on which such relaxation was given (may be as a one-time measure) is the same that the seniors should get chance to appear in the examination even if they do not have the required approved

service, provided they have completed a minimum period of service. It is quite clear that the Government while issuing these orders had kept in mind the fact that the seniors should not be deprived of the opportunity merely because they came as direct recruits later and the opportunity be given only to promotees.

16. We are convinced that the claim of the applicants is quite fair and justified. The OA is, therefore, allowed and the respondents are directed to declare the results of the applicants within a period of 90 days from the date of receipt of a certified copy of the order. No costs.

(Dr.Brahm Avtar Agarwal)
Member (J)

(P.K.Basu)
Member (A)

/kdr/