

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH : BANGALORE

ORIGINAL APPLICATION No. 170/00458/2017

TODAY, THIS THE 17th DAY OF SEPTEMBER, 2018

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER
HON'BLE SHRI DINESH SHARMA, ADMINISTRATIVE MEMBER**

1. M.R. Chethan
Aged about 35 years
Working as Administrative Assistant
On contract basis,
All India Institute of Speech and Hearing,
Manasagangotri, Mysore 670 006
R/o No. 544, Dewan's Road
Chamaraja Mohalla,
Mysore – 570 004
2. D.N. Paramesha,
Aged 33 years
S/o Late Nanjundappa K.N
Working as Clerk-cum-Typist
On contract basis
All India Institute of Speech and Hearing,
Manasagangotri, Mysore 670 006
R/o MIG 937, 2nd Stage
B Block, J.P. Nagar,
Mysore
3. M. Prasad, aged 32 years,
S/o Late Maraiah S
Working as LDC-cum-Typist
On contract basis
All India Institute of Speech and Hearing,
Manasagangotri, Mysore 670 006
R/o No. 79, A Block, Jalapuri
Police Quarters,
Mysore 570 019
4. S.G. Sindhu,
W/o Rajeev Kumaer, C.R.
Aged 29 years
Working as Administrative Assistant
On contract basis
All India Institute of Speech and Hearing,
Manasagangotri, Mysore 670 006
R/o No. 1659, "C" Block
1st Cross, Mahadevapura,
N.H. Palya Post,
Mysore 570 008

5. G. Kumar
 Aged 34 years
 S/o Gurusiddaiah M.C.,
 Working as Administrative Assistant
 On contract basis
 All India Institute of Speech and Hearing,
 Manasagangotri, Mysore 670 006
 R/o No. 2, LIG, 15th Cross,
 3rd Stage, 3rd Main,
 Gokulam, Mysore – 570 002

... Applicants.

(By Advocate Shri Ranganatha S. Jois)

Vs.

1. The Union of India
 Rep by its Secretary
 Ministry of Health and Family Welfare,
 New Delhi – 110 001

2. The All Institute of Speech
 And Hearing
 “Naimisham” Campus,
 Manasagangotri,
 Mysore 570 006
 Rep by its Director

... Respondents.

(By Advocate Shri K. Ananda)

O R D E R

Hon'ble Shri Dinesh Sharma, Administrative Member

The facts of the case, in brief, are as follows:

2 The applicants were appointed as Group-C employees, namely, Clerk-cum-Typist, LDC-cum-Typist, Administrative Assistant etc. in the 2nd respondent organisation on various dates from 2008 onwards and they have been working as such for nearly 5 to 8 years. The 2nd respondent issued a notification for filling up the post of Store Keeper, UDC, Accountant, LDC, Clerk-cum-Typist as per the notification issued on 25.10.2016. The applicants allege that they approached the authorities to consider their case for selection by giving weightage and age relaxation. Though this was initially agreed to, however, in the final list of eligible short listed candidates published for skilled

posts on 11.08.2017 and 12.08.2017, their names were not included. The applicants have requested for providing weightage for their contract appointment service and for age relaxation. They have cited the judgement of the Apex Court in the case of Secretary, State of Karnataka vs. Umadevi and Others, 2006 (4) SCC p.1 (hereinafter referred to as Umadevi case) in support of their claim.

3. The respondents have denied the claim of the applicants. According to them, the applicants were not regular employees, but were engaged on contract basis for temporary period. The applicants had also applied for recruitment following the notification No. 15/2016, but have failed to secure marks above the cut off percentage in the examination which was conducted following the above notification. The respondents have denied the application of law laid down by the Hon'ble Apex Court in Umadevi case on the facts of this case.

4. The applicants in their rejoinder reiterated their case and have cited examples of 2nd respondent having on earlier occasions regularised employees working on contract basis in various cadres.

5. After going through the pleadings and hearing the arguments on both sides, the main issue which needs to be decided is whether the applicants deserve consideration for regular appointment following the decision in Umadevi case. It is admitted by the applicants that they have been working in their respective posts for 6 to 9 years and, therefore, it is not their case that they have done 10 years of service with the respondents. The applicants have also appeared in the examination and have admittedly not secured marks above the cut off marks. Therefore, as the respondents have rightly argued, even if age relaxation was to be considered, they would not be selected on the basis of the examination in which they have failed to get qualifying marks. The

applicants cannot, obviously, put any legal claim on the basis of an alleged legal opinion sought and received by the respondents about giving weightage and age relaxation to the applicants. There is nothing very specific in the judgement of Hon'ble Supreme Court in Umadevi case which can justify giving age relaxation and extra weightage for "internal candidates". Since there are no legal grounds on which applicants' prayer can be granted, the O.A is dismissed with no orders as to costs.

**(DINESH SHARMA)
ADMINISTRATIVE MEMBER**

**(DR. K.B. SURESH)
JUDICIAL MEMBER**

Cvr.

Annexures filed by the applicants in O.A:

- Annexure-A1: Copy of the service certificate of the 1st applicant
- Annexure-A2: Copy of the service certificate of the 2nd applicant
- Annexure-A3: Copy of the service certificate of the 3rd applicant
- Annexure-A4: Copy of the service certificate of the 4th applicant
- Annexure-A5: Copy of the service certificate of the 5th applicant
- Annexure-A6: Copy of the appointment order of the 1st applicant
- Annexure-A7: Copy of the appointment order of the 2nd applicant
- Annexure-A8: Copy of the appointment order of the 3rd applicant
- Annexure-A9: Copy of the appointment order of the 4th applicant
- Annexure-A10: Copy of the appointment order of the 5th applicant
- Annexure-A11: Copy of the notification dated 25.10.2016
- Annexure-A12: Copy of the select list of eligible candidates for LDC
- Annexure-A13: Copy of the select list of eligible candidates for Clerk-cum-typist

Annexures with MA 405/2017

- Annexure-A14: Copy of the OM dated 07.09.2017 regarding teaching staff
- Annexure-A15: Copy of the OM dated 07.09.2017 regarding technical staff
- Annexure-A16: Copy of the OM dated 07.09.2017 regarding clerical staff
- Annexure-A17: Copy of the letter dated 12.09.2017 issued to 1st applicant
- Annexure-A18: Copy of the letter dated 12.09.2017 issued to 2nd applicant
- Annexure-A19: Copy of the letter dated 12.09.2017 issued to 3rd applicant
- Annexure-A20: Copy of the letter dated 12.09.2017 issued to 4th applicant
- Annexure-A21: Copy of the letter dated 12.09.2017 issued to 5th applicant

Annexures with MA 154/2018

- Annexure-A21: Copy of the Tender Document

Annexures with reply filed by the respondents:

- Annexure-R1: Copy of the appointment order of the 1st applicant
- Annexure-R2: Copy of the appointment order of the 2nd applicant
- Annexure-R3: Copy of the appointment order of the 3rd applicant
- Annexure-R4: Copy of the appointment order of the 4th applicant
- Annexure-R5: Copy of the appointment order of the 5th applicant
- Annexure-R6: Copy of the OM dated 29.12.2015
- Annexure-R7: Copy of the OM dated 15.02.2016
- Annexure-R8: Copy of the order dated 15.03.2016 issued by 2nd respondent
- Annexure-R9: Copy of the recruitment notification dated 25.10.2016
- Annexure-R10: Copy of the list of short listed candidates to the post of Accountant
- Annexure-R11: Copy of the list of short listed candidates to the post of LDC
- Annexure-R12: Copy of the list of short listed candidates to the post of Clerk-cum-typist
- Annexure-R13: Copy of the letter dated 08.03.2018 submitted by the applicant No. 4

Annexures with rejoinder filed by the applicants:

- Annexure-A24: Copy of the letter dated 13.10.08
- Annexure-A25: Copy of the AIISH Annual Report 2002-03

