

**CENTRAL ADMINISTRATIVE TRIBUNAL****CHANDIGARH BENCH**

M.A.No.060/00128/2017 in  
O.A.NO.060/00101/2017

Orders pronounced on: 09.04.2019  
(Orders reserved on: 11.02.2019)

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &  
HON'BLE MS. P. GOPINATH, MEMBER (A)**

1. Anju Bala, aged 45 years, W/o Sh. Kamal Kumar, working as Stenographer Grade-II, O/o Joint Commissioner of Income Tax, Khanna Range, Khanna R/o 16, Near Rajindra Filling Station, Chandigarh Road, Samrala-141114, District Ludhiana.
2. Jeewan Lata, aged 44 years W/o Sh. Vikas Gautam, working as Stenographer Grade-II, O/O Joint Director of Income Tax (Inv.), Jalandhar.
3. Parminder Kaur, aged 45 years W/o Sh. Charanjit Singh, working as Stenographer Grade-II, O/O Commissioner of Income Tax-I, Jalandhar.
4. Vandana, aged 43 years W/o Sh. Rajesh Krich, working as Stenographer Grade-II, O/O Joint Director of Income Tax (Inv.) Jalandhar.
5. Amarpreet Kaur, aged 46 years W/o Sh. Yash Pal, working as Stenographer Grade-II, O/O Additional Commissioner of Income Tax, Central Range, Jalandhar.
6. Brij Bhushan, aged 43 years S/o Sh. Lubhaya Sharma, working as Stenographer Grade-II, O/o Principal Director of Income Tax (Inv.), Ludhiana.
7. Rajni Bala, aged 45 years, W/o Sh. Vinod Kumar Suri, working as Stenographer Grade-II, O/O Principal Commissioner of Income Tax (Central), Ludhiana.

8. Simerjit Kaur, aged 44 years, W/o Kultar Singh, working as Stenographer Grade-II, O/O Principal Chief Commissioner of Income Tax, Amritsar.

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.... **Applicants****(BY: MR. R.K.SHARMA, ADVOCATE)**

Versus

1. Union of India through Secretary to Government of India, Ministry of Finance, Department of Revenue, New Delhi.
2. Central Board of Direct Taxes, North Block, New Delhi through its Chairman
3. Principal Chief Commissioner of Income Tax, North West Region, Aayakar Bhawan, Sector 17-E, Chandigarh.

**(BY: MR. K.K.THAKUR, ADVOCATE)**

4. Manoj Kumar, Stenographer O/O Assistant Commissioner of Income Tax, Central Circle, Patiala.
5. Jagsir Singh, Stenographer O/O Assistant Director of Income Tax (Investigation), Patiala.
6. Sajjan Kumar, Stenographer O/O Additional Commissioner/ Joint Commissioner of Income Tax, Range-I, Gurgaon, Haryana.
7. Sukhdarshan Rohila, Stenographer O/o Income Tax Officer (Headquarters), office of Principal Commissioner of Income Tax, Rohtak.
8. Savita, Stenographer O/O Additional Commissioner / Joint Commissioner of Income Tax, Range-I, Jammu.

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**Respondents****(BY : NONE)****ORDER**

**SANJEEV KAUSHIK, MEMBER (J)**

1. M.A. No. 060/00129/2017 is allowed and the applicants No.1 to 8 are allowed to file a joint Original Application (O.A).
2. The applicants have filed this Original Application (OA) under section 19 of the Administrative Tribunals Act, 1985, for quashing the order dated 9.11.2016 (Annexure A-1 to A-8) vide which their representations for seniority from the date of initial joining on ad-hoc basis has been rejected; final seniority list issued on 20.1.2016 (Annexure A-9) to the extent their seniority has been determined w.e.f. 21.5.2014 instead of 10.4.2006 and order dated 23.5.2015 (Annexure A-14) vide which their regularization was done w.e.f. 21.5.2014 and to declare that they applicants are regular Stenographer Grade II w.e.f. 10.4.2006 etc. and direct the respondents to grant them regularization w.e.f. 10.4.2006 for further promotion as Stenographer Grade-I and to treat them under old General Provident Fund-cum-Pension Scheme instead of Permanent Retirement Account Number (PRAN) under New Defined Contributory Provident Fund Scheme etc.
3. The applicants have also filed the instant M.A. No.060/00128/2017 seeking condonation of delay of 250 days in filing the O.A. to challenge the offending clause relating to date of regularization in order dated 23.5.2015 and enforcement of order dated 3.4.2013 as it was enforced only in order dated 23.5.2015. It is argued, with reference of the facts mentioned in O.A. that consequent upon sponsorship of their names through the Local Employment Exchange, the applicants after qualifying skill test and interview, were appointed as Stenographer during June, 1993 to October, 1995, against vacant slots, as per particulars given in Annexure A-10. The applicants approached this Tribunal in O.A.No.1110-PB-2003 for regularization of their service, which was dismissed vide order dated 2.9.2005, which was

challenged in CWP No.2895 of 2006 which was disposed of on 30.8.2011 (Annexure A-11), with direction to the respondents to frame a Scheme of regularization in accordance with the decision in the case of **SECRETARY, STATE OF KARNATAKA AND OTHERS VS. UMA DEVI & OTHERS**, (2006) 4 SCC 1. The services of the applicants were ultimately regularized vide order dated 13/20.5.2014 (Annexure A-12). It was followed by memorandum dated 13.5.2015 and 23.5.2015 (Annexures A-13 and A-14).

4. It is submitted that a condition was imposed that they must qualify the Stenography test, as per Income Tax Department Grade-II (Group 'C') Recruitment rules, 2010. This was challenged in O.A.No.060/00626/2015, which was allowed vide order dated 24.2.2016 (Annexure A-15). The claim of the applicants in brief is that since their regularization is in continuation of their ad-hoc service, which was through recognized mode of recruitment, as such they are deemed to be regularized from 1993-1995 itself. A tentative seniority list was issued on 23.11.2015, without formal circulation, against which representations were made and list was finalized. Aggrieved by inaction of respondents on objections raised by the applicants, they approached this Tribunal by O.A. No. 060/00760/2015 titled **RANJANA SHAHI & OTHERS VS. UNION OF INDIA & OTHERS**, which was decided with direction to the respondents to consider their objections. Their objections were disposed of vide order dated 9.11.2016 (Annexures A-1 to A-8) rejecting it by placing reliance on policy dated 3.4.2013 (Annexure A-19), which denies benefit of ad-hoc service for seniority.

5. It is stated that indicated circular would not apply to the facts of the applicants as they have been continuing for more than 20 years. Moreover, the claim of applicants would be covered by instructions / rules prevalent prior to 3.4.2013. But by mis-application of same,

applicants have been put below who have joined service 20 years after them. Even a daily wager, paid out of contingency is entitled to benefit of GPF-cum-Pension Scheme if appointment is prior to 1.1.2004 which has also been denied to them by treating them appointees vide order dated 20.5.2014. They claim that their case is fully covered by decision of Hon'ble Punjab and Haryana High Court in CWP No. 2371 of 2010 (**HARBANS LAL VS. THE STATE OF PUNJAB AND OTHERS**) Decided on 31.8.2010 as upheld by Hon'ble Apex Court in SLP © No. 23578 of 2012 against which Review Petition © No. 2038 of 2013 was also dismissed on 4.11.2015. However, with loss of regularization and seniority from due date, the applicants are suffering in further promotion as Stenographer Grade I and even in MACP Scheme etc. The sequence of facts have been given in detail with a mention that there is no intentional delay on the part of the applicants and respondents cannot take benefit of their own wrong.

6. The M.A. has been resisted by official respondents No.1 to 3. They submit that just because applicants have been availing departmental remedy, does not mean that it would afford them a ground for condonation of delay. The delay and laches have not been explained by applicants.

7. We have heard the learned counsel present for the parties at length and examined the material on file.

8. A conjunctive perusal of the pleadings of M.A. read with O.A. shows that the applicants were engaged through employment exchange in 1993/1995. They started their journey for regularization of their services by filing O.A. No. 1110-PB-2003 which was rejected on 2.9.2005. This was challenged in Hon'ble High Court in **CWP No.2895-CAT-2006** which was disposed of vide order dated 30.8.2011, with direction to the respondents to frame a Scheme in accordance with verdict of Hon'ble

Apex Court in the case of **UMA DEVI & OTHERS**, (supra), with an observation that applicants fell within the exception carved in para 53 of the aforesaid decision. SLP (CC) No. 2649 of 2013 filed by the Department was dismissed by Hon'ble Apex Court. The services of applicants were regularized but with a condition that they must qualify a skill test. This was quashed and set aside in O.A. No. 060/00626/2015 decided on 24.2.2016. Thereafter the seniority lists were issued and claim of applicants for regularization was rejected. Thus, the facts will show that the applicants have been continuously under litigation for regularization and seniority and as such there are sufficient grounds with cogent reasons to condone the delay in filing the O.A. In view thereof, we are inclined to allow the application. M.A. is allowed and delay in filing the O.A is condoned.

9. Even though respondents No.1 to 3 have filed reply to O.A. on merits also, but it is clear from interlocutory orders that notice was issued only in the M.A. for condonation of delay.

10. Secondly, record also shows that notice was issued to respondents No.4 to 8, but service has not yet been effected upon them.

11. In the wake of above, Let notice on O.A. be issued to the respondents returnable for 16.05.2019. Notice to private respondents be served through the official respondents for the date fixed. Reply be filed within four weeks, with copy to the other side.

**(P. GOPINATH)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

PLACE: CHANDIGARH.  
DATED: 09.04.2019

HC\*