

**Central Administrative Tribunal
Principal Bench, New Delhi**

**OA No.3617/2014
MA No. 3123/2014**

this the 20th day of August, 2019

**Hon'ble Mr. S.N. Terdal, Member(J)
Hon'ble Mr. Pradeep Kumar, Member (A)**

1. Shri Gopi Chand
Age 58 years
D/ LDC
S/o Late Shri Vidya Ram
C-132/A, Gali No. 5, Bhajanpura, New Delhi.
2. Smt. Shashi Chauhan
Age 54 years
D/ LDC
W/o Shri A.B.S. Chauhan
C-4-C, Kanakpuri, New Delhi.
3. Smt. Raksha Parashar
Age 56 years
D/ LDC
W/o Shri S.R. Parashar
R/o 213/7, Sector-7, R.K. Puram, New Delhi.

... Applicants

(By Advocate : Mr. Padma Kumar S.)

Versus

1. Union of India
Secretary
Ministry of Agriculture
Krishi Bhawan, New Delhi.
2. Secretary
DoP&T, North Block, New Delhi.

... Respondents

(By Advocate : Mr. Rajinder Nischal)

ORDER (ORAL)

Mr. S.N. Terdal, Member (J)

Heard Mr. Padma Kumar S., learned counsel for applicants and
Mr. Rajinder Nischal, learned counsel for respondents.

2. The relief prayed for in the OA are extracted below :

- (a) Declare that the denial of the consequential benefits of the order dated 18.1.2010, in so far as applicants are concerned, as illegal and arbitrary.
- (b) Direct the respondent to revise the seniority of the Applicant in terms of the date of initial appointment on account of the regularization of the ad hoc service.
- (c) Direct the respondents to grant the applicant all the consequential benefits, including promotion to higher posts, their arrears of pay with interest thereon.
- (d) Grant any other relief which this Hon'ble Tribunal may be pleased to grant under the facts and circumstances of the case.

3. The relevant facts of the case are that the applicants were appointed through Employment Exchange on ad-hoc basis as Lower Division Clerks (LDCs) on 03.04.1978 (Sh. Gopi Chand), 02.02.1977 (Smt. Shashi Chauhan) and 03.12.1977 (Smt. Raksha Parashar) and thereafter the Special Clerks Grade Examination was conducted by Staff Selection Commission and they were regularized as per details given below :-

- (a) Sh. Gopi Chand (Spl. Exam., 1982) - 18.01.1983
- (b) Smt. Shashi Chauhan (Spl. Exam., 1982) - 18.01.1983
- (c) Smt. Raksha Parashar (Spl. Exam., 1985) - 14.01.1986

By subsequent office order dated 18.01.2010, their ad-hoc services were regularized from the date of initial appointment.

4. In view of the above facts, the applicants are praying for fixing of their seniority from the date of their initial appointment which have been regularized in view of the order dated 18.01.2010. In this regard, Respondent No. 2, DoP&T by their letter dated 16.08.2013 referring to the correspondence of Ministry of

Agriculture stated that the seniority should be reckoned from the date of regularization of ad-hoc service. Relevant portion is extracted below:-

“Reference note of Ministry of Agriculture & Cooperation on page 19/notes of the file No. 23023/1/2010-E.I.

2. As per the CSCS Rules, promotion in LDC and UDC grade is based on approved service concept. However, the matter was referred to Establishment Division of this Department for their further clarification in the matter. The comments of Establishment Division are reproduced below :-

- i) Seniority would be reckoned from the date of regularization of ad-hoc services, i.e. from the date of initial appointment, as approved by this Division earlier.
- ii) Approved service would be reckoned from 1st July of their year of Special Qualifying Examination conducted by SSC for their appointment as LDC (treating their examination as similar to LDC)."

5. The Department of Agriculture and Cooperation - Respondent No. 1, having been found difficulty with the letter dated 16.08.2013, sought clarification vide their letter dated 23.09.2013 which is extracted below :

“Sh. Gopi Chand, Smt. Shashi Chauhan and Smt. Raksha Parashar, Assistants of this Department were, in September 2012, informed that their request for Revision of Seniority has been turned down in consultation with the Department of Personnel & Training. The officials again submitted representations requesting that their matter of fixation of seniority may again be looked into by the Department and if not possible the case may be referred to DoP&T for reconsideration.

2. The file was referred to CS II Division of Department of Personnel and Training, CS-II Division conveyed the comments of Establishment Division which reads as follows :-

- i) Seniority would be reckoned from the date of regularization of ad-hoc services, i.e. from the date of initial appointment (as approved by them earlier).

ii) Approved service would be reckoned from 1st July of their year of Special Qualifying Examination conducted by SSC for their appointment as LDC (treating their examination as similar to LDC)."

3. Since the clarification given by Department of Personnel and Training is ambiguous, this Department is not in a position to draw inferences from the same. It is once again requested that this Department may be advised as to whether or not Shri Gopi Chand, Smt. Shashi Chauhan and Smt. Raksha Parashar are eligible for grant of seniority from the date of their initial appointment.

4. This has the approval of JS (Admn.) (page22/N)."

But DoP&T has not given any clarification on the aforesaid reference.

6. Learned counsel for the applicants submits that the OA be disposed of by giving direction to DoP&T to give clarification sought for by the Department of Agriculture and Cooperation.

7. In view of the above facts and circumstances, Respondent No. 2 – DOP&T is directed to give clarification sought by Respondent No. 1 within three months from the date of receipt of certified copy of this order. On receipt of reply from respondent no. 2, respondent no. 1 is directed to convey the decision to the applicant.

8. Accordingly, OA is disposed of. No order as to costs.

(Pradeep Kumar)
Member (A)

(S.N. Terdal)
Member (J)

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