

**Central Administrative Tribunal
Principal Bench**

OA No.2890/2015

Orders Reserved on: 17.09.2019.

Pronounced on: 15.10.2019.

Hon'ble Mr. Pradeep Kumar, Member (A)
Hon'ble Mr. Ashish Kalia, Member (J)

1. Abhishek Pandey
S/o Shri Arun Kumar Pandey
Age 29 years
R/o 565, Sec.12. R.K. Puram,
New Delhi.
2. Ali Iqbal
S/o Late Iqbal Shah
Age 33 years
R/o B-302, 4th Floor, Taj Enclave Geeta Colony
New Delhi.
3. Amit Upadhayay
S/o Shri Biteshwar Upadhayay
Age 28 years
R/o S34, Param Puri, Uttam Nagar West,
New Delhi.
4. Anirban Lahiri
S/o Late Gopi K Lahiri
Age 29 years
R/o Block II/3A Sec.2, DIZ Area,
New Delhi.
5. Chintan Puri
S/o Shri R.K. Puri
Age 31 years
R/o H.No. 1275, Sector 19,
Faridabad
6. Deepak Kumar
S/o Shri Surendra Kumar
Age 31 years
R/o A-170, North Motibagh,
New Delhi.

7. Dolly Dixit
W/o Shri Sachin Kr. Upadhiya
Age 31 years
R/o A-585, 2nd Floor, Giri Marg,
Mandawal, New Delhi.
8. Hira Lal Mishra
S/o Shri Bhagwan Mishra
Age 31 years
R/o C-II/2 DLF, Ankur Vihar, Ghaziabad.
9. Md. Momin Mallick
S/o Late Noor Md. Mallick
Age 28 years
R/o 8/528 Lodhi Colony, New Delhi.
10. Partha Pratim Sur
S/o Late Gurupada Sur
Age 30 years
R/o M140, Laxmi Nagar
New Delhi-92
11. Rahul Kumar Sinha
S/o Shri Upendra Kumar
Age 28 years
R/o 48, Parmnanand Colony
Mukherji Nagar, New Delhi.
12. Sabyasachi Pande
S/o Shri Kalyan Pande
Age 31 years
R/o C-3 242 Lodhi Colony,
New Delhi.
13. Sanat Kr. Verma
S/o Shri Prem Pratap Verma
Age 30 years
R/o RZ/D-3/150, Mahavir Enclave
New Delhi.
14. Sandeep Kumar
S/o Shri Damodar Nath
Age 26 years
R/o 5/3, 3rd Floor, Gali No. 30 A-I Block
Santnagar, Burari, Delhi.
15. Shashwat Pratap

S/o Shri Swatantra Pratap
 Age 28 years
 R/o 46 Azadpur, Delhi-33

16. Sumit Jha
 S/o Shri Maneshwar Jha
 Age 29 years
 R/o L-1329, Mangol Puri,
 New Delhi-83
17. Vikas Anand
 S/o Shri Laxman Anand
 Age 27 years
 R/o WA 199A, 3rd Floor,
 Shakarpur, Delhi.
18. Virender Singh
 S/o Shri Dev Karan Singh
 Age 34 years
 R/o 18/16 2nd Floor,
 Ashok Nagar, New Delhi.
19. Yaurav
 S/o Shri Rohtash
 Age 29 years
 R/o A-290, Motibagh,
 New Delhi.

All the applicants are the DR Assistants in Prime Minister Office

20. Shreyasi Biswas, Assistant,
 Ministry of Agriculture
 D/o Shri Sukdeb Biswas
 Age 28 years
 R/o C-3 242, Lodhi Colony,
 New Delhi.

-Applicants

(By Advocate : None)

Versus

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 : Mr. Hanu Bhaskar)

O R D E R

Hon'ble Mr. Pradeep Kumar, Member (A):

The applicants are direct recruit Assistants in the Central Secretariat Service (CSS) recruited through Combined Graduate Level Examination, 2010 (CGLE-2010). The results of this examination were declared in January, 2011 and the applicants had joined service with effect from May, 2011 onwards. For the post of Assistant, there is a promotee quota also in which the staff working as UDC, gets promoted as per the norms. Further promotion of Assistant lies to the post of Section Officer.

2. A notification for Limited Departmental Competitive Examination (LDCE) to fill the posts of Section Officer, was issued on 21.07.2015 wherein the last date for making applications was 07.08.2015. This examination is to be conducted by the Union Public Service Commission (UPSC) and the candidates are required to apply online.

As per the provisions of clause (c) of Rule 2 of CSS Rules, 1962 as per the amendment notified on 21.06.1995, the length

of 'approved service' in respect of an officer recruited directly to a grade or the service, is reckoned from the notional date of 1st day of July of the year following the year in which the examination for direct recruitment was held. Accordingly, 'approved service' for the applicants counts from 01.07.2011.

3. In reference to DoP&T order dated 30.09.2011 for being eligible to appear in the Section Officer's Grade (LDCE), an officer of the Assistant Grade of the CSS possessing a bachelor's degree of a recognized university or equivalent is eligible and he/she shall also have to satisfy a crucial condition that he/she has rendered not less than 05 years of 'approved service' and should also have earned at least 04 Annual Performance Assessment Report (APAR) in Assistant Grade.

The applicants are senior in the grade of Assistant vis-a-vis some of the promotee Assistants who have risen as Assistants from the grade of UDC. The applicants do not have the minimum service of 05 years although they have 04 APARs.

4. The applicants are having a grievance that even though some of their juniors (promotee Assistants) are allowed to participate in the said LDCE, they have been denied such an opportunity because of the rule dated 30.09.2011 needing 05 years minimum service. The present OA has been filed, seeking a direction to the respondents as under:

“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.”

5. When this matter was listed for hearing for the first time on 06.08.2015, the Tribunal had directed that online applications of the applications be accepted subject to the condition that their results shall be kept in a sealed cover. While this interim stay was still in place, the OA was dismissed on 15.02.2017 on account of non-prosecution by the applicants. However, this OA was subsequently restored vide orders dated 11.08.2017.

6. The applicants plead that consideration and grant of relaxation, is provided for in the rules and grant of relaxation has been considered in the past also and accordingly similar relief needs to be granted to them as well and especially so because their juniors are eligible to write this LDCE.

7. *Per contra*, the respondents opposed the OA. It was pleaded that on the similar grievance, 08 OAs including the instant OA, were filed namely, OA Nos.3052/15, 2917/15, 2891/2015, 2883/2015, 2888/2015, 2773/2015 and 2906/2015. At one stage it was also decided to club these OAs

and hear them together. However, these were subsequently de-clubbed.

Out of these, OA No.2883/2015 and 2891/2015 were allowed by the Tribunal vide order dated 16.09.2016, wherein the respondents were directed to declare the results of the said LDCE, 2015. It is noted here that the applicants in these two OAs (DR Assistants of CGLE-2010) were earlier allowed by Tribunal to appear in said LDCE-2015, on provisional basis subject to decision in OA. This decision by the Tribunal was challenged by the respondents by filing Writ Petition (Civil) No.1738/2017. The promotee Assistants who were adversely affected by the decision in these OAs, had also filed Writ Petition (Civil) No.4711/2017 assailing decision by Tribunal.

In respect of instant OA, the respondents have mentioned that their reply filed on 24.07.2017 in OA No.2917/2015, be taken to be their reply for the instant OA also. At that time, two Writs were still pending adjudication by Hon'ble High Court.

These two Writs have now been decided by the Hon'ble High Court by passing a common order dated 01.07.2019. This decision by the Hon'ble High Court squarely deals with the grievance raised by the applicants in the instant OA. The relevant parts of the order by the Hon'ble High Court of Delhi are reproduced below:

“1. The aforesaid writ petitions have been preferred by the petitioners to assail the common order dated 16.09.2016 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 2883/ 2015 and O.A. No. 2891/ 2015 respectively, preferred by the respondents/ original applicants. The Tribunal has allowed the said Original Application and directed the petitioner- UOI to declare the LDCE results of the applicants within 90 days from the date of receipt of the certified copy of the order.

2. The respondents/ original applicants are arrayed as respondents in both these writ petitions. The respondents/ original applicants as well as the petitioners in W.P. (C) 4711/ 2017, on the date of filing of the O.A., were holding the substantive post of Assistants, or a post in the equivalent grade, in the Central Secretariat Service (CSS). The respondents/ original applicants became Assistants as direct recruits through Combined Graduate Level Examination, 2010 result of which were declared on 07.01.2011. They shall be referred to as the Direct Recruits. They joined the services thereafter, from 30.05.2011 onwards. The petitioners in W.P.(C.) No.4711/2017, on the other hand, were Upper Division Clerks (UDC“s) who came to be promoted as Assistants in the CSS vide DoP&T O.M. dated 05.08.2010 on ad-hoc basis, & were brought in select list 2010 of Assistant’s vide O.M. dated 10.09.2013. They shall be referred to as the Promotees. The Direct Recruits were shown above the Promotees in the seniority list of the Assistants Grade of the CSS.

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65. There is one other aspect which we wish to observe and state at this stage. We find that the Direct Recruits have come into the CSS as Direct Recruit Assistants, whereas the Promotees came into the CSS after rendering service in the Central Secretariat Clerical Service (CSCS). Thus, the age band in which they fall is in the range of 45-55 years. However, the Direct Recruits are still very young and their age band is between 25-35 years. Thus, the "grave injustice" that the Direct Recruits are crying about, in any event, is not something that would last during the lifetime of their service. Since the Promotees would be phased out of service much earlier in point of time on account of their superannuation, when compared to the Direct Recruits, the Direct Recruits would not, in any event, suffer a lasting disadvantage.

66. For all the aforesaid reasons, we allow the writ petitions and quash the impugned common order passed by the Tribunal in the aforesaid Original Applications leaving the parties to bear their respective costs.”

7.1 The respondents pleaded that now since the issue raised by the applicants in the instant OA, has been dealt with by the

Hon'ble High Court, the instant OA is required to be disposed of for action in accordance with this judgment of the Hon'ble High Court.

8. Subsequent to the decision in these two Writs by the Hon'ble High Court, the respondents have also preferred MA No.2758/2019 for early hearing. Accordingly, the instant OA was taken up for final hearing.

9. The matter has been heard at length. None appeared for the applicants. Shri Hanu Bhaskar, learned counsel represented the respondents.

10. In respect of direct recruit Assistants 'approved service' counts from 1st July 2011 and admittedly they have not completed 05 years of service which is the specified requirement for a candidate to be eligible to write the LDCE. Admittedly, the applicants do not fulfil this requirement.

11. A close reading of the judgment dated 01.07.2019 by Hon'ble High Court makes it clear that the issue raised by the applicants is squarely covered and the plea put-forth by DR Assistants, has been rejected (para-7 supra). There is no reason to take a different view in the instant OA for the DR Assistants who are similarly placed and raised the same issue.

The OA is accordingly without merit and is dismissed. Stay is also vacated. No costs.

(Ashish Kalia)
Member (J)

(Pradeep Kumar)
Member (A)

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