

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.2820/2003

New Delhi, this the 11th day of May, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.A.SINGH, MEMBER (A)

1. Sohan Lal
2. Bhoja Ram

All C/o Sohan Lal
s/o Shri Parmanand
r/o 64, Lodhi Road Complex
New Delhi - 110 003. Applicants

(By Advocate: Ms. Mamta Rani proxy for Dr. Surat Singh)

Versus

1. Union of India
through Secretary
Ministry of Home
New Delhi.
2. Registrar General of India
2/A, Mansingh Road
New Delhi - 110 001.
3. Director
Directorate of Census Operations
Room No.207, Old Secretariat
Delhi - 110 054. Respondents

(By Advocate: Sh. J. B. Mudgil)

ORDER

Justice V.S. Aggarwal:-

Applicants are aggrieved by the letter of 25.7.2003 whereby they have been directed to appear in Special Qualifying Examination, conducted by Staff Selection Commission for Group 'D' staff. They seek a direction to regularise their services to the post of the Lower Division Clerk from the back date with consequential benefits.

2. Some of the relevant facts are that the applicants were appointed as Lower Division Clerk (for

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short 'LDC') on ad hoc basis w.e.f. 1980. Their names had been sponsored by Employment Exchange and they have been working there for the past more than 22 years. On earlier occasion, the applicants have filed OA No.1068/1986 and OA No.1166/1986. The same were disposed of by a common order of this Tribunal on 24.7.1992. It was directed that respondents will arrange the holding of special tests for the applicants and give them at least two minimum chances to appear in the special tests. This had to be done within three months.

3. The applicants contend that no action was taken and after ten years the respondents challenged the order of this Tribunal by filing a Civil Writ Petition No.2353/2001 which was dismissed in limine by the Delhi High Court on 28.2.2001. Still, reliance further is being placed on the orders passed by the Central Administrative Tribunal, Jaipur Bench and Patna Bench whereby similarly situated persons have been directed to be regularised. After dismissal of the Writ Petition in the Delhi High Court, it is asserted now that respondents are asking applicants to take the above said test which according to the applicants cannot be done at this stage because services of the persons juniors to the applicants have since been regularised. It is on these broad facts that the above said reliefs are being claimed.

4. The application has been contested. It has been pointed that on an earlier occasion, the services of the applicants had been terminated w.e.f.

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27.11.1986. The applicants had preferred OA in this Tribunal and direction had been given to grant two chances to the applicants. They were given an opportunity. Applicants failed to qualify. The Department of Personnel and Training did not agree for another opportunity. It is not disputed that the Writ Petition filed by the Union of India has since been dismissed.

5. We have heard the parties' counsel and seen the relevant records.

6. At this stage, it is relevant to mention that the present OA was filed. An interim order had been issued during the pendency of the petition that if the Staff Selection Commission holds the examination in terms of the letter of 25.7.2003, they will not compel the applicants to appear in the test.

7. Some of the facts which are admitted, can be delineated which make the position clear. When the applicants had earlier filed OAs, i.e., OA 1166/86 (Bhoja Ram v. Union of India) and OA 1068/86 (Sohan Lal v. Union of India), this Tribunal had directed that two opportunities should be given for holding the test. The operative part of the orders passed by this Tribunal dated 24.7.1992 reads:

"8. In our opinion, having regard to the long period of ad hoc service put in by the applicants, the applicants should be given at least two more chances to appear in such special tests. We, therefore, dispose of the application with a direction to the respondents to arrange the holding of special tests for the applicants and

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persons similarly situated, if any, through the Staff Selection Commission, as a special case. They shall do so as expeditiously as possible, but preferably within a period of three months from the date of communication of this order. In case the applicants qualify the special test to be conducted by the Staff Selection Commission, they should be appointed as Lower Division Clerks on a regular basis. The application is disposed of on the above lines.

There will be no order as to costs."

8. It is not in dispute that it was after nine years of the said order passed by this Tribunal that Union of India preferred a Civil Writ Petition No.1353/2001 which was dismissed by the Delhi High Court on 28.2.2001. The said order is in the following words:

"This petition is directed against the Order passed by the Central Administrative Tribunal, Principal Bench as far back as on 24th July, 1992. We do not find any ground to interfere with the impugned order at this belated stage. The present petition is, therefore, dismissed in limine."

9. On behalf of the applicants, reliance was being placed on the decisions of the Jaipur Bench of this Tribunal in the case of GULAM NABI v. UNION OF INDIA & ORS., (TA No.2424/86, decided on 5.7.1993) and of the Patna Bench of this Tribunal in EQBAL HASSAN & OTHERS v. UNION OF INDIA & OTHERS (OA No.82/1997, decided on 28.9.2001).

10. Undoubtedly, in the matter referred to, it appears that similarly situated persons had filed OAs and the Jaipur Bench had directed to finalize the Scheme of regularisation for such like persons. We

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would have dealt with this controversy but as we have already pointed above, between the parties there is a decision of the Principal Bench of this Tribunal whereby it was directed that the applicants should be granted two opportunities to pass the said test to be held by the Staff Selection Commission. The said decision binds the parties.

11. As already pointed, the order was passed by this Tribunal in the year 1992. The respondents delayed the matter and did not give two opportunities to the applicants as directed by this Tribunal. It is not in dispute that passing of the test to be held by the Staff Selection Commission is mandatory. In that view of the matter, the applicants necessarily must sit in the test that is being held and the respondents must hold the test after giving applicants a reasonable time in this regard. At this stage, we deem it necessary to mention that the respondents had delayed the matter inordinately when there was a direction by this Tribunal which had not been challenged even at that time. There was no occasion to postpone it for almost nine years to give the second opportunity to the applicants in this regard.

12. Consequently, we dispose of the present application directing that the applicants should be given chance to sit for the test in terms of the decision of this Tribunal dated 24.7.1992 referred to above. The said test should be held preferably within four months of the receipt of a certified copy of this order.


(S.A. Singh)
Member(A)


(V.S. Aggarwal)
Chairman