

Mahendra Kumar and Others Vs District Magistrate and Others

Court: Allahabad High Court

Date of Decision: Sept. 11, 2002

Acts Referred: Constitution of India, 1950 " Article 14, 16

Uttar Pradesh Election Department District Level (Clerical Grade) Service (Amendment) Rules, 1995 " Rule 15, 16, 2, 3, 4

Uttar Pradesh Election Department District Level (Clerical Grade) Service Rules, 1992 " Rule 10, 15, 16, 17, 2

Citation: (2003) 2 AWC 1499

Hon'ble Judges: Sunil Ambwani, J

Bench: Single Bench

Advocate: D.D. Chauhan and Anil Tiwari, for the Appellant; S.C. Budhwar, Saghir Ahmad and D.K.S. Rathore and S.C., for the Respondent

Final Decision: Dismissed

Judgement

Sunil Ambwani, J.

Petitioners in the above writ petitions were engaged as Junior Clerks in the District Election Office, from time to time,

have filed this writ petition for direction to respondents to take work from them continuously. The writ petition was initially dismissed on 18.8.1998

on the ground that petitioners are temporary employees having no right to the post. An application to recall the order was also dismissed on

13.4.1998. A Special Appeal No. 1081 of 1998 against the orders was allowed, and the matter was directed to be listed for fresh disposal. In the

meantime, an order was passed by the District Election Officer/District Magistrate, Azamgarh, dated 26.8.1998, terminating their services, which

has been challenged, along with amendment in Services Rules, by an Amendment Application No. 59282 of 1999, allowed on 1.2.2000.

2. The services of petitioners, in Writ Petition No. 19392 of 1998, Mahendra Kumar and three Ors. v. District Magistrate, Azamgarh, were

terminated with effect from 30.6.1998 after which no work was taken from them. Counter-affidavits of Hari Krishna Mishra, respondent No. 2

and Sri J. L. Chaudhary, Chief Electoral Officer, U. P., Lucknow, have been filed to the amended petition. A counter-affidavit of Sri Ram Raj,

Assistant District Election Officer, Azamgarh, was also filed to unamended writ petition on 30.6.1998, on behalf of respondent Nos. 1, 3 and 4.

3. Writ Petition No. 27629 of 1991, Ramesh Chandra v. State of U. P., has been filed for the same reliefs to which short counter-affidavit of Sri

Anil Kumar Gupta, Assistant District Election Officer, Ghaziabad, filed on 26.10.1998 is on record.

4. Manoj Kumar Misra had earlier filed Writ Petition No. 27629 of 1991 for his regularisation. The writ petition was disposed of on 27.5.1999

with the direction to decide petitioner's representation. The Chief Election Officer, U. P., rejected the representation on 26.8.1999. Aggrieved he

has filed Writ Petition No. 38463 of 1999 which has been connected to this bunch of writ petitions.

5. Writ Petition No. 20584 of 1998 has been filed by Mohan Chandra Joshi for a direction in the nature of mandamus commanding the

respondents not to interfere in the services of petitioner on the post of Junior Clerk in the office of District Election Officer, Ghaziabad and to

regularise his services. A counter-affidavit of Anil Kumar Gupta, Assistant District Election Officer, Ghaziabad, has been filed.

6. I have heard Sri Anil Tiwari appearing for petitioners in all above writ petitions ; Sri S. C. Budhwar, senior advocate, assisted by Saghir Ahmad

for Chief Electoral Officer, State of U. P. ; and learned standing counsel. Brief facts arising from the pleadings are stated as below.

7. In order to meet exigency of the increased work on account of Vidhan Sabha, Lok Sabha and Vidhan Parishad elections. State Government

created special and time bound work to carry out revision of electoral lists for Junior Clerks for a period upto six months in various categories on

purely temporary basis. These posts were not added to the cadre, and that the services of these ad hoc employees came to an end after the expiry

of period for which the posts were created. This arrangement was continuing for long until 15th November, 1995, when all the posts in the election

department were centralised. The regular posts are provided to be filled up under the U. P. Election Department District Level (Ministerial)

Service Rules, 1985, made under Article 309 of the Constitution of India, from amongst persons who have worked in the election department

from time to time giving them benefit of service rendered with the department. All the posts were centralized in the year 1995. Petitioners have

worked on the temporary posts of junior clerks on ad hoc basis on exigency of election work for the periods given as below :

Writ Petition No. 19392 of 1998, Mahendra Kumar and Ors. v. District Magistrate, Azamgarh and Ors..

(1) Mahendra Kumar :

1.10.1993 to 31.3.1994

1.4.1996 to 1.3.1997.

1 year 5 months 27 days.

(2) Ram Udai :

16.5.1988 to 30.6.1988

14.10.1988 to 30.11.1988

30.9.1989 to 25.11.1989

1.12.1989 to 20.2.1990

1.5.1991 to 30.9.1991

11.10.1993 to 31.3.1994

1.4.1996 to 31.3.1997.

2 years 7 months 28 days.

(3) Lalji :

7.3.1980 to 15.4.1980

21.4.1980 to 30.5.1980

16.7.1980 to 31.8.1980

17.5.1988 to 31.7.1988

23.9.1989 to 25.11.1989

1.12.1989 to 28.2.1990

1.4.1991 to 30.9.1991

11.10.1993 to 31.3.1994

1.4.1996 to 31.3.1997.

3 years 15 days.

(4) Sukh Ram :

25.5.1988 to 31.7.1988

1.11.1988 to 31.12.1988

17.2.1989 to 30.6.1989

23.9.1989 to 25.11.1989

1.12.1989 to 31.5.1990

1.4.1991 to 30.9.1991

11.10.1993 to 31.3.1994

14.12.1994 to 31.12.1994

1.4.1996 to 31.3.1997.

4 years 5 months 1 day.

Writ. Petition No. 20582 of 1998,

Ramesh Chandra v. State of U. P.

19.5.1988 to 31.7.1988

12.11.1988 to 28.2.1989

20.4.1989 to 31.5.1990

8.4.1991 to 7.10.1991

1 year 8 months 10 days.

Writ Petition No. 38463 of 1999.

Manoj Kumar Misra v. State of U. P.

25.8.1983 to 10.11.1983

16.5.1988 to 6.7.1988

20.10.1989 to 31.5.1990

1.4.1991 to 30.9.1991

18.10.1993 to 31.3.1994

1.4.1996 to 31.3.1997

1 year 5 months 7 days.

Writ Petition No. 20584 of 1998,

Mohan Chandra Joshi v. State of U. P.

28.10.1989 to 27.1.1990

14.11.1991 to 1.10.1991

8.11.1993 to 31.3.1994

1.4.1996 to 30.9.1996

1.10.1996 to 31.3.1997

23.1.1998 to 30.6.1998

2 years 6 months 20 days.

The process for regular selection of junior clerks in the department was started in April, 1996. Names of eligible candidates were called from three

sources ; through advertisement, through District Employment Offices and through District Election Offices of those candidates who had worked

for different periods from time to time during General Election of Lok Sabha/Vidhan Sabha, and bye-elections, or at the time of revision of

electoral roll. Due to election of Vidhan Sabha, 1996 and bye-elections of Lok Sabha and Vidhan Parishad, the process of selection was held up.

In the month of April, 1997, a list of candidates was prepared for type test in Hindi in which 25 words per minute speed was essential eligibility

condition, as provided in Service Rules for direct recruitment. Director of Training and Employment U. P. was required to instruct any Polytechnic

or I.T.I. situate at Lucknow for conducting type test. Under the direction of Director of Training and Employment, Principal I.T.I., Aliganj,

Lucknow, conducted type test, the result of which was declared on 8.10.1997. The candidates having minimum speed of 25 words per minute in

Hindi typing, were called for interview which was held on 4, 8 and 9th November by a committee under the Chairmanship of Chief Election

Officer, U. P., who is appointing authority for the post. Final result in accordance with merit list were declared on 4.12.1997 and appointment

letters to successful candidates were issued between 5.12.1997 and 31.1.1998.

8. In the counter-affidavit of Sri J. L. Chaudhary in Writ Petition No. 19392 of 1998, it is stated that applications of petitioner No. 1 and

respondent No. 2 were received in the department while names of petitioner Nos. 3 and 4 were received through District Election Officer,

Azamgarh. Petitioner No. 2 did not apply nor his name was received from District Election Officer. Petitioner No. 1 and respondent No, 2

appeared in typing test while petitioner Nos. 3 and 4 did not appear. Petitioner No. 1 failed in typing test and was not called for interview.

Respondent No. 2 qualified and was selected and an appointment letter was issued to him on 5.12.1997.

9. In counter-affidavit to Writ Petition No. 20582 of 1998, Ramesh Chand v. State, it is stated in para 17 that he was allowed to participate and

was considered as retrenched employee having put in more than three years of experience as contemplated under the rules. He did not qualify with

minimum requirement of 25 words per minute in type test and as such he was declared to have failed and could not get the benefit of special

treatment as retrenched employee at the time of Interview.

10. In Writ Petition No, 38463 of 1999, Sri Manoj Kumar Misra has alleged in paragraph 24 of the writ petition that he was not at all informed

about any such selection, nor the posts were ever advertised by the respondents and as such he was denied opportunity of being considered for

the selection.

11. In Writ Petition No. 20584 of 1998, Mohan Chandra Joshi v. State of U. P., it is alleged by the petitioner that he worked as junior clerk on ad

hoc basis on 2 years 6 months 20 days, that he is registered with Ghazlabad Employment Exchange. On earlier occasion his name was sent for

temporary post and that while petitioner was working in the office of District Election Officer, Ghaziabad, he was not sent any call letter and came

to know, that Employment Exchange did not forward his name. In the counter-affidavit, it is stated that petitioner did not complete 3 years of

service upto 30.6.1998 and thus he was not given a certificate as retrenched employee and was not considered in the selection of 1995. There

was no restriction to apply for being considered for selection held in 1995 and interview for July, 1996, while general notices were issued inviting

applications which is annexed as Annexure-5 to the counter-affidavit. His name was not recommended through the department as he did not fall in

the category of "retrenched employee" and that the Employment Exchange informed respondents on 23.9.1998 in response to the letter of Chief

Election Officer, U. P., requisitioning three posts in general category, one in Scheduled Caste and one in Other Backward Caste for the post of

junior clerk, prescribing qualification as intermediate and 25 words per minute speed in Hindi typing as essential qualification, for which the

Employment Exchange, Ghaziabad, vide its letter dated 8.7.1996 forwarded equal number of names of five candidates. The name of Mohan

Chand Joshi could not be included as his speed of Hindi typing expired on 30.11.1995 and thus he did not fall within prescribed standard.

12. Petitioners have also challenged the selections on following grounds :

(i) Having worked as junior clerks in the District Election Office on ad hoc basis for periods ranging from 2 years to 4 years, they were entitled to

be regularised, and in any case they should have been given preference by providing due weightage to their past services, after relaxation of age.

(ii) The process of selection to the services which was centralized in the year 1995 was wholly arbitrary, unreasonable, discriminatory and violative

of Articles 14 and 16 of the Constitution of India, inasmuch as petitioners were not given weightage as the ad hoc employees. Those who are

working or had worked on ad hoc basis were not individually informed. Wide publicity was not given by advertising in newspaper having wide

circulation in the State of Uttar Pradesh, and that the method adopted for selections namely holding a type test was not relevant to the requirement

of the service. The type test prescribing minimum type speed of 25 words per minute in Hindi was taken in most arbitrary fashion in which the

favoured candidates were declared to have passed the test, and that after having worked for two to four years in the election department, the

requirement of passing typing test was wholly illegal and arbitrary method adopted, only to disqualify the petitioners.

13. Sri S. C. Budhwar, senior advocate, assisted by Sri Saghir Ahmad appearing on behalf of Chief Electoral Officer, State of U. P. has raised

preliminary objection to the maintainability of the writ petition. He submits that a writ petition without impleading the selected candidates is not

maintainable and has relied upon Arun Tiwari and Ors. v. Zila Mansavi Shikshak Sangh and Ors. AIR 1998 SC 331, where the Supreme Court

held following Judgment in Prabodh Verma and Others Vs. State of Uttar Pradesh and Others, , that the High Court ought not have decided the

writ petition under Article 226 of the Constitution of India without impleading the persons who would be vitally affected by its judgment as

respondent, or at least some of them before it as respondent in a representative capacity, He submits that in India the elections by adult franchise

are basic feature of the Constitution which zealously protects the sanctity and purity of the election. Before the start of the election, State must

ensure correctness of elector rolls. For this purpose, U. P. Nirwahan Vibhag Zila Stariya (Lipikiya Varg) Niyamawali, 1994, were made and has

been amended in the year, 1995 by notification dated 15.11.1995, providing for direct recruitment, by a process to select the best available

persons. By notification dated 27.8.1984 and 17/18.3.1986, the Election Department provided special measures for recruitment of retrenched

employees by giving them age relaxation and preference. However, in the year 1992, the aforesaid rules were amended to induct eligible and

deserving persons by holding selections giving preference to the retrenched employees. The rules, however, were not found sufficient inasmuch as

a number of undeserving persons gained entry on account of local influence and thus by notification dated 15.11.1995, the rules were amended

providing for a centralised service, the Chief Election Officer to be the appointing authority and giving weightage to retrenched employees, instead

of preference. The entire effort was to induct eligible and competent persons in the clerical cadre of election office. In the selections held in 1997,

efforts were made to inform all retrenched employees by sending individual information under certificate of posting as well as publishing

advertisement inviting applications in newspaper. Names were also called from Employment Exchange from all over the State and the type test in

accordance with rules was entrusted to I.T.I., Lucknow, which was conducted in a transparent manner. Some of the petitioners applied but did not

fulfil the requisite minimum Hindi typing speed of 25 words per minute and did not qualify for giving weightage.

14. Coming to the preliminary objection, I find that petitioners have sought regularisation, and in the alternative, they have challenged 1995

amendment to the rules claiming preference in appointment. They form class of their own in which one of the selected candidates Sri Hari Krishna

Misra has been impleaded as respondent No. 2 In Writ Petition No. 19392 of 1998. In Arun Tiwari v. Zila Mansavi Shikshak Sangh, (supra)

Supreme Court followed the decision in Prabodh Verma (supra), where not a single selected person was made a party. In the present case,

respondent No. 2 represents the retrenched class of employees who was selected, that thus this writ petition cannot be thrown out on preliminary

objection. In any case, the challenge was considered by Supreme Court and the selections were weighed of their own merits.

15. The appointments made to carry out of time-bound work of revision of electoral rolls on ad hoc basis, have given rise to these claims. A

notification issued by Election Department of the State Government dated 27.8.1984 and Government orders dated 23.5.1981 and 21.7.1984

issued by the Provincial Department of the State Government recognising these rights. These Government orders provided age relaxation up to

maximum period of 10 years and exemption from educational qualifications in case he fulfils the minimum educational qualifications at the time of his

appointment. Following these Government orders, the Election Department provided 50% of the temporary posts sanctioned in District Election

Officer"s Office to be reserved for retrenched employees and the rest to be filled by requisitioning names from the District Employment Office. The

appointments were to be subject to the reservation rules. Those persons who have worked for one year whether continuously or not and were

disengaged on account of discontinuation of posts were treated to be retrenched employees. The arrangement continued upto 27.5.1987.

16. By a notification issued by Election Department of Government of U. P. dated 17/18.3.1986, it was found that the earlier notification issued on

21.7.1984 did not fulfil the rights of the claims of retrenched employees and as such, a decision was taken that the temporary vacancies on clerical

posts available in District Election Office shall be exempted from the Subordinate Offices Clerical Grade Employees (Direct Recruitment), Rules,

1985. Those employees who have worked in the Election Department on temporary posts for time-bound work for at least one year out of which

they have been in continuous service for at least three months shall be treated to be retrenched employees. They shall be given age relaxation for

the period they have worked, or have remained out of employment for a maximum period of 10 years and shall be exempt from educational

qualification provided they fulfilled qualifications prescribed at the time of their first appointment. These retrenched employees were to be

appointed, subject to their seniority by rejecting the unfit. It was, however, made compulsory that such employees have pro-efficiency of minimum

25 words per minute in Hindi typing for which preference shall be given to those who can type 25 words per minute In English. Regular vacancies

were required to be filled by examination, amongst those who have worked for total three years and have been retrenched subject to their

seniority. Hindi typing of 25 words per minute was essential qualification with preference to those who could also type 25 words per minute in

English. The appointments were to be made subject to reservation rules.

17. The U. P. Election Department District Level (Clerical Grade) Service Rules, 1992, made under Article 309 of the Constitution of India were

notified on 30.6.1992. It provides for the U. P. Election Department District Level Clerical Grade Service as a non-Gazetted service. The

appointing authority under Rule 3 (a) was provided to be District Election Officer to be nominated u/s 13AA for each district under Representation

of the People Act, 1950. A "retrenched employee" was defined under Rule 3 (i) to be a person who has been appointed in any District Election

Office for a period of three years either on permanent or temporary basis ; his services have been dispensed with either upon shortage or closure

of the establishment and In respect of whom the appointing authority has issued a certificate, that such employee has been a retrenched employee.

These do not include persons appointed on ad hoc basis. Rule 4 provided for a separate cadre of service for every District Election Office of

which the number of posts were to be determined by the State Government from time to time, which can be left unfilled or suspended by the

appointing authority. Under Sub-rule 3 (2), an additional permanent or temporary post could be sanctioned by the Government. The source of

recruitment for junior clerk was provided to be by direct recruitment from amongst retrenched employees and if eligible retrenched employees are

not available, then vacancies could be filled by persons other than retrenched employees by direct recruitment. Fifteen percent posts were

provided to be filled by promotion from Group "D" employees who had passed High School Examination. The post of Senior Clerk, Accountant

and Stores Clerks are provided to be filled by promotion from amongst the junior clerks who have completed five years of service on 1st of July of

the recruitment year. Reservations are provided in accordance with the orders applicable at the time of recruitment issued by the State Government

from time to time under Rule 6. Rule 8 provides for minimum qualification of which includes (a) to have passed intermediate or equivalent

examination conducted by Secondary Education Board, U. P. and (b) a minimum typing speed of 25 words per minute in Hindi and that the

preferential qualification to be the knowledge of English typing and Experience in any Government Office. Rule 10 provides for a maximum

relaxation of 10 years in age limit for retrenched employees. Rule 16 provides that for appointment to the post of junior clerk, the procedure of

recruitment as provided in the Subordinate Offices Clerical Grade Employees (Direct Recruitment) Rules, 1985, made under Article 309 of the

Constitution of India and notified on 16th March, 1985, for recruitment to the posts other than retrenched employees.

18. The aforesaid service rules were amended by notification dated 15th November, 1995. This notification, amended Rules 2, 3, 4, 5, 6, 7, 8,

15, 16 and 17 with the object of making the clerical grade service as a centralised service at State level under Election Department of Uttar

Pradesh. Rule 2 was amended to make a centralised service and in Rule 3 (a), the appointing authority was provided to be the Chief Election

Officer as notified u/s 13A of the Representation of People Act, 1950. The definition of "retrenched employees" under Rule 3 (i) was also

amended providing that a retrenched employee is a person who has worked for a minimum period of three years in election office in which three

months of service has been in continuation, (b) his services has been dispensed with on account of reduction or closure of the establishment and (c)

in respect of whom a certificate of retrenched employees has been issued by the appointing authority. Rules 5, 8 and 16 made a significant

departure. Amended Rule 5 gave up source of recruitment to the post of junior clerks, and provided appointment only by direct recruitment, and

amended Rule 16 made the 1985 Rules applicable to direct recruitment to all the candidates including the "retrenched employees". The retrenched

employees were given only a preference in direct recruitment provided he possessed the minimum qualification of having passed Intermediate

Examination from Secondary Education, Uttar Pradesh, or any equivalent qualification, having efficiency of 25 words per minute typing speed in

Hindi. The other preference was given to the candidates possessing knowledge of English typing and experience of work in any Government office

was also retained in amended Rule 8.

19. With the aforesaid amendments in Service Rules, 1992, by notification dated 15th November, 1995, the "retrenched employees" lost their

right as preferential source of recruitment and were relegated to the position of preference in case of direct recruitment. They were required to

compete with the candidates from open market and if all other things including minimum qualification and eligibility being equal, a preference was to

be given to them with age relaxation as provided in un-amended Rule 10.

20. The first submission is that petitioners as retrenched employees have a right to be regularised and in any case, preference in appointment after

relaxation of age on the strength of their services which they have put in the same department. Sri Anil Tiwari pointed out that this right has been

recognised by this Court in *Bihranchi Prasad and Ors. v. Mukhya Nirvachan Adhikari, Lucknow*, by the Division Bench in its decision dated

24.9.1992 annexed as Annexure-7 to the amendment application as well as in Special Appeal No. 834 of 1993, *Bihranchi Prasad and Ors. v.*

State of U. P., decided on 24.9.1992. In these decisions, this Court had negated a challenge to the statute followed by *U. P. Nirvachan Vibhag*

Zila Star (Lipik Vargiya), Rules, 1994 but found that since petitioners in those writ petitions were discharging their duties for a number of years,

they cannot be substituted by a fresh appointment. It was not proper to ask them to appear in the examination in order to renew their appointment

and the authorities were directed to consider their claim for regularisation on the basis of their best service and performance.

21. First of all, these two decisions are applicable only to the petitioners in those cases. Secondly, the decisions were rendered in 1992 and

1994 after which Supreme Court changed the course of stream of law relating to regularisation, which was flowing between 1985 to 1992. All the

subsequent decisions have put strong words of caution for appointments de hors rules. The backdoor entry of those who secured employment

without following the rules of recruitment has been stopped. In Delhi Development Horticulture Employees' Union Vs. Delhi Administration, Delhi

and others, , Supreme Court has strictly prohibited regularisation except in accordance with Regularisation Rules made under Article 309 of the

Constitution of India. Petitioners did not qualify either under U. P. Regularisation of Ad Hoc Employees (Outside the Purview of U. P. Public

Service Commission), Rules, 1989. Their recruitment to service was permissible only under G.Os. dated 27.8.1984 or dated 17/18.3.1986 under

notification issued by the Election Department, and thereafter under the 1992 Rules as amended in 1995 and by no other method. This Court as

such finds that petitioners do not have claim for regularisation of their services de hors the statutory rules.

22. As discussed above, the 1992 Rules treated retrenched employees as a preferential source of recruitment. The notification dated 15.11.1995

made a significant change in the Rules. By this amendment, the clerical cadre was centralised at State level. This was done to avoid the local

influence in appointment which was not found desirable in the service in Election Department and the powers of appointment were taken away

from the District Election Officers of the State. The retrenched employees lost their preferential source of recruitment and were given only a

preference in recruitment amongst the eligible candidates provided they possessed essential qualification and had knowledge of Hindi typing with a

minimum speed of 25 words per minute. The object and purpose of amendment given in the counter-affidavit cannot also be said to be arbitrary,

unreasonable and it cannot be said that rules were amended only to deprive the rights accrued to retrenched employees. In order to maintain purity in the

election process and make election free and fair, it was necessary to avoid local influence in appointment and to centralise the cadre vesting the

powers of appointment in the Chief Election Officer, U. P. The amendment by which the retrenched employees lost their preferential source of

recruitment cannot also be said to be arbitrary or unreasonable inasmuch as under the amended rules, they have been given preference in

recruitment over the candidates from open market provided they are eligible and fulfil minimum qualification.

23. With the policy of preferential recruitment of retrenched employees from 1992 to 1995, almost all the retrenched employees holding minimum

qualifications could be appointed on regular posts. The amendment In the year 1995, therefore, while centralizing the services, and providing

opportunity to all other eligible persons, to compete cannot, therefore, said to be void under Articles 14 and 16 of the Constitution. The retrenched

employees as a class stopped the entry of general candidates into Election Offices from 1984 to 1995. In my opinion 1995 Rules as such stopped

the reverse discrimination as caused to general eligible candidates, without denying the preference to the retrenchees. The 1995 amendment as

such cannot be said to be illegal, arbitrary or violative of Articles 14 and 16 of the Constitution of India.

24. The selection process in 1997 under amended Rules has been challenged on following grounds :

(a) The vacancies were not advertised in any leading newspaper having wide circulation in the State and in any case the retrenchees were not

informed individually and that some of the petitioners could not acquire knowledge and thus could not apply for appointment.

(b) The number of vacancies were not declared giving arbitrary powers to the respondents.

(c) Type test was a mere formality. The persons who did not know typing have been selected and the persons like petitioners who know typing,

were not at all invited in the selection. The sheet of paper was not permitted to be signed giving scope for manipulations.

(d) Retrenched employees were forced to compete with unequals, which is violative of Articles 14 and 16 of the Constitution.

25. Sri S. C. Budhwar has produced the records before me. He submits that all the retrenched employees, the list of which was called from

District Election Officer, numbering 1,242 were individually informed by sending notice under certificate of posting to apply for direct recruitment.

26. The advertisement was made in daily newspaper "Workers Herald" published from Lucknow dated 12.7.1996. The newspaper is recognised

by the Information Department of Government of U. P. and almost all the petitioners except petitioner No. 2 in Writ Petition No. 19392 of 1998,

and petitioner in Writ Petition No. 38463 of 1999 did not apply. The names were called from all the Employment Exchanges in Uttar Pradesh. He

submits that type test was taken by and under the supervision of the Principal and Staff of I.T.I., Lucknow, and has produced the result of type test

of 1,246 candidates. Mahendra Kumar and Sukh Ram in Writ Petition No. 19392 of 1998 and Ramesh Chandra in Writ Petition No. 20582 of

1998 could not secure the speed of 25 words per minute in Hindi typing and that Lalji in Writ Petition No. 19392 of 1998 was absent, Manoj

Kumar Misra in Writ Petition No. 38463 of 1999 did not apply or appear in the test.

27. In Writ Petition No. 38463 of 1999, petitioner Manoj Kumar Misra has stated that he had no knowledge and thus he could not appear in the

selection. It is true that the advertisement was not made in a newspaper having wide circulation, but the record has been produced to show that all

petitioners including Manoj Kumar Misra were sent notices under certificate of posting. Names were called for from the Employment Exchange.

The process for selection was held at that time spread over a period of one year. It is also alleged that notices were published on the "Notice

Board" of Selection office in the district. In case he has chosen to remain ignorant, the Court cannot cancel selections held at State level in which

more than thousands candidates appeared.

28. For the aforesaid reasons, I find that petitioners have no right for regularisation of their services. In the rules, they have been given preference in

appointment. The 1995 amendment centralized the cadre and took away retrenchees' rights as source of recruitment. However, they have been

given preference in appointments. Therefore, the amended rules do not violate their rights under Articles 14 and 16 of the Constitution of India.

Petitioners have not been able to show that selection process Initiated in 1996 is vitiated on any of the grounds raised in the writ petitions. All the

writ petitions consequently fail and are dismissed. On the facts and circumstances of the case, there shall be no order as to costs.