

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

OA-3162/2002

New Delhi this the 27th day of May, 2003.

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)
Hon'ble Sh. C.S. Chadha, Member(A)

1. S.K. Bose,
S/o Sh. H. Bose,
111-B, Nivedita Enclave,
A-6, Paschim Vihar,
New Delhi-63.
2. Shiv Kumar,
S/o late Sh. Ram Saran Das,
A-181A, Lajpat Nagar,
Gaziabad(UP).
3. Smt. K.P. Giriya,
W/o Sh. P.K. Unni Raman,
G-373, Nauroji Nagar,
New Delhi-29.
4. Smt. Pankaj Chadha,
W/o Sh. Pradeep Raj Chadha,
H-314, Nanak Pura,
New Delhi-29.
5. D.S. Antil,
S/o Sh. Dharam Singh,
1783, Lodhi Road Complex,
New Delhi-3.
6. Nandan Singh,
S/o late Sh. Ganga Singh,
GH-8/52, Paschim Vihar,
New Delhi-63.
7. Shiv Singh Chauhan,
S/o late Sh. K.S. Chauhan,
821, Sector-8, R.K. Puram,
New Delhi-66.
8. Suresh Chand Sharma,
S/o Sh. R.K. Sharma,
10/74, Gita Colony,
Delhi-31.

..... Applicants

(By Advocate : Sh. S.K. Das)

Versus

1. Union of India through
its Secretary,
Department of Health,
Ministry of Health and Family Welfare,
Nirman Bhawan, Maulana Azad Road,
New Delhi-11.

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2. Director General Health Services,
Department of Health,
Ministry of Health and Family Welfare,
Nirman Bhawan, Maulana Azad Road ,
New Delhi-11.

3. Secretary,
Ministry of Statistics and Programme
Implementation,
Sardar Patel Bhawan,
Sansad Marg,
New Delhi-1.

..... Respondents

(By Advocate : Sh. D.S. Mahendru)

ORDER (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman(J)

Applicants, 8 in number, who were appointed on ad hoc basis as Statistical Assistants in the years 1982 and 1992 are aggrieved by the action taken by the respondents to revert them from that post to their regular post of Computer vide impugned order dated 22.11.2002.

2. We have heard Sh. S.K. Das, learned counsel for applicants and Sh. D.S. Mehendru, learned counsel for respondents and perused the pleadings and relevant documents on record.

3. By the aforesaid impugned order dated 22.11.2002, 10 Statistical Assistants who were working on ad hoc basis were reverted to their regular posts of Computer with immediate effect, out of which 8 of them are the applicants in the present case. The applicants earlier had filed an OA ^{OA} (1369/2002) which was disposed of by Tribunal's order dated 11.07.2002. In terms of that order, the aforesaid impugned order as well ^{as} _{as} rejecting the applicants' representation ~~was~~ passed by the respondents.

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4. According to the learned counsel for applicants, the respondents have as many as 22 vacant posts of Statistical Assistants, out of which 11 posts come to the share of the promotion quota, the ^{other B.} ~~applicants~~, 11 posts being for direct recruitment under the relevant Recruitment Rules. It is relevant to note that Applicant No.1 has put in nearly 20 years of ad hoc service as Statistical Assistant and the other applicants have put in more than 10 years of ad hoc service. This itself shows that the respondents have not cared to follow the relevant rules and guidelines issued by the Government of India, DOP&T with regard to filling up the posts and holding the DPC in time i.e. annually and not to continue any person on a promotion post on ad hoc basis normally beyond a period of one year. How these Rules and guidelines have been flouted by the respondents is a matter for the Head of Office to look into and all that can be stated is that the department had indeed not followed the relevant Rules and instructions on the subject. At the same time, we also note that the applicants have themselves not cared to help themselves by filing the OA well in time, say after a period of one year of ad hoc service, for a direction to the respondents to comply with the relevant Rules and Instructions. It cannot be disputed by the respondents that they do not have vacant posts because they have continued to allow the applicants to work in the promotion post of Statistical Assistants in an ad hoc capacity for decades. It appears from the facts in this case that only because the applicants made a representation dated 22.5.2001 claiming regularisation in the higher post that the impugned orders have been issued, including the order to revert them to the substantive post.

5. In the above facts and circumstances of the case, we dispose of this OA with the following directions:-

- (i) Subject to availability of vacancy in the post of Statistical Assistants in the promotion quota as per the relevant Recruitment Rules, the respondents are directed to hold DPC positively within a period of ^{three B.} 3 months from the date of receipt of a copy of this order. They shall consider the case of the applicants, if otherwise eligible in accordance with the Recruitment Rules, for promotion to the post of Statistical Assistants. Those found fit for promotion to the post of Statistical Assistants shall be entitled to notional fixation of seniority from the due date in accordance with the relevant Law, Rules and Instructions;
- (ii) We are not saying anything about their pay because admittedly they have worked on the higher post on ad hoc basis for the earlier period and have drawn the salary in the higher pay scale of Statistical Assistants.
- (iii) Alternatively, in the ^{B.} cases where the period of ad hoc promotion has been continued for more than 13 & 14 years,

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respondents shall also consider whether under the Law they are entitled for regularisation.

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(iv) The ~~the~~ action shall also be taken within *three 83* 3 months from the date of receipt of a copy of this order.

No order as to costs.

C.S. Chadha
(C.S. Chadha)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)