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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 705/2001

New Delhi this the 7th day of December, 2001

Hon'ble Shri Govindan S.Tampi, Member (A)

Dinesh Chand Baihwal
S/O Laxmi Narain,
Lecturer in Digital Electronics,
Ambedkar Polytechnic, Shakarpur,
Delhi-110092

R/O 1252, Sector-VII,
R.K.Puram, New Delhi..

..Applicant

(By Advocate Shri K.N.R. Pillay)

VERSUS

Govt. of NCT Delhi through:
The Director-cum-Secretary,
Directorate of Training and Technical
Education, Muni Mayaram Marg, Pitampura,
Delhi-110034

..Respondent

(By Advocate Shri Amit Rathi, learned
proxy counsel)

O R D E R (ORAL)

(Hon'ble Shri Govindan S.Tampi, Member (A))

Heard Shri K.N.R. Pillay and Shri Amit Rathi, learned
counsel for the applicant and respondents, respectively.

2. The brief relevant facts of this case are that the applicant was appointed as Lecturer on contract basis (Digital Electronics) in Ambedkar Polytechnic, Govt of NCT Delhi on 15.11.1997. The appointment was initially for one year but was to be extended upto 6 months or till the post is filled on regular basis through the Union Public Service Commission (UPSC). At the end of the initial tenure of one year, he was granted extension from time to time for six months. By the order dated 28.7.2000 he was granted last

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extension for six months from 27.5.2000 while one Shri Dharmender Khanna, a junior whose initial appointment was on 30.12.1998 has been given his extension for six months from 30.6.2000. Before the period of applicant was coming to an end on 26.11.2000, he applied for further extension which was duly recommended by the Principal. However, when the extension order came on 22.12.2000 his name was not included in the extension order while Shri Dharmender Khanna has been given further extension. The applicant, Shri Dharmender Khanna and Rajiv Dahiya are working in the same Department in the same Polytechnic and in terms of the principle of "first come last go" the applicant's services should not have been terminated instead of Sh. Dharmender Khanna who came on subsequent date. Reiterating the pleadings made in the OA, Shri K.R.N. Pillay, learned counsel states that as the applicant, Shri Dharmender Khanna and Rajiv Dahiya belong to the same Department, the persons who had been appointed on subsequent dates, their services should have been dispensed with and not the applicant. This was not done by the administration which was wrong.

3. Strongly rebutting the above pleas raised by the applicant, Shri Amit Rathi, learned proxy counsel submits that though the applicant and Shri Dharmender Khanna belong to the same Department, they were holding different posts. While the applicant was appointed as Lecturer (Digital Electronics), and Shri Dharmender Khanna was appointed as Lecturer (Electronics). That being the case when regularly selected candidate by the UPSC came for the post of Lecturer

(Digital Electronics) the applicant's services on contract basis had be terminated. It was not true that the regularly selected candidate by the UPSC was in the stream of Shri Dharmender Khanna. Therefore, his services could have been dispensed with though his appointment came on a date subject to that of the applicant. As the respondents have terminated the services of the applicant when a person through the UPSC came for the post of Lecturer (Digital Electronics), the said action of the respondents cannot be either termed irrational or illegal. OA, therefore, fails and is to be dismissed, according to Shri Rathi.

4. I have carefully considered the matter. The individual who had been appointed to fill up a post on a contract basis has to yield place to one who is regularly selected through the UPSC to that post. While doing so it should also be ensured that the replacment of those who were working on contract basis would be on the principles of "last come first go". This is unexceptionable. However, in this case I find that the applicant and Shri Dharmender Khanna whose case is referred to by Shri Amit Rathi, learned proxy counsel for the respondents and reiterated by Shri K.N.R. Pillay, learned counsel are not in the same stream because the applicant, Shri Dinesh Chand Baihwal was originally appointed by order dated 15.11.1997 as Lecturer (Digital Electronics) while Shri Dharmender Khanna was appointed as Lecturer (Electronics). That being the case when the person selected by the UPSC for the post of Lecturer (Digital Electronics) comes the applicant will have

to vacate the post. However, I find that some confusion has been caused by carelessness of the respondents who had issued order dated 28.7.2000 wherein Dharmender Khanna is shown as Lecturer (Digital Electronics) at Serial No.10 and applicant is shown as Lecturer (Electronics) at Serial No.12. The fact remains still, that he new appointee is from Digital Electronics and he has correctly replaced the applicant. Thus the respondents have correctly not issued the extension order in respect of the applicant and the same cannot be assailed.

5. In view of what has been stated above, I find that the applicant has not made out any case for interference. In the circumstances the OA fails and is dismissed. However, in the ^{interest} ~~and~~ of justice, I direct the respondents to pay a token cost of Rs.500/-(Rupees five only) to the applicant for having dragged the applicant to this Tribunal, by their confused action. by their carelessness.

(Govindan S. Tampi)
Member (A)

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