

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1643/1999

New Delhi, this 6th day of ^{December} ~~November~~, 2000

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri M.P. Singh, Member(A)

Bindan Singh
RZ1417 A/28 Tuglakabad Extn.
New Delhi-110 019 .. Applicant

(By Shri T.C.Agarwal, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Information & Broadcasting
New Delhi
2. Director General
DAVP, PTI Building
Parliament Street, New Delhi .. Respondents

(By Shri D.S.Mehandru, Advocate)

ORDER

By Shri M.P. Singh

By the present OA the applicant has challenged the order dated 30.9.98 by which he stood reverted with effect from 31.12.97 from the post of Junior Technical Assistant (JTA, for short) to his original post of Data Entry Operator (DEO, for short).

2. Briefly stated, it is the case of the applicant that while he was working as DET, he was promoted to the post of JTA vide order dated 4.1.94 in a temporary capacity against the vacancy created by the incumbent going on deputation with the stipulated condition to continue till vacancy is available. He was given artificial break but continued to work as JTO but by the impugned order he has been reverted with retrospective effect i.e. from 31.12.97. Aggrieved by this, he has approached this Tribunal seeking direction to cancel the impugned order dated 30.9.98 and to direct the respondents to regularise him in the post of JTA.

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3. It is the case of the respondents in their counter (14) that the applicant was initially appointed on ad hoc basis as JT w.e.f. 5.1.94 for a period of one year on account of the regular incumbent of the post having proceeded on deputation. This was done by a duly constituted selection committee on the basis of the applications received through advertisement in newspapers. He was reverted to the post of DTE as per the conditions in the offer of appointment dated 4.1.94. However, since the vacancy was available, the applicant was again promoted on ad hoc basis from 11.1.95 for a period upto 27.7.95 or till regular incumbent of the post repatriates, whichever is earlier. He was continued as such upto 30.9.98 but on the advice of the DoPT dated 6.7.98 and in pursuance of DoPT's instructions dated 29.9.97 that allowances w.e.f. 1.1.98 of all ad hoc appointees should be released only if the approval of DoPT is obtained, the applicant was given effect of reversion w.e.f. 31.12.97. It is not denied that post of JTA is still vacant but the same is to be filled by direct recruitment and DET is not a feeder cadre post for promotion to JTA. In response to the advertisement issued by them in January, 1997 for filling up two posts of JTA, none of the persons including the applicant, was found eligible for the post. Therefore, the present OA may be dismissed and respondents be permitted to advertise the posts again in the Employment News.

4. We have heard the learned counsel for the parties and perused the records.

5. Though there is no whisper anywhere in the OA the learned counsel for the applicant during the course of the argument has mentioned that because of the reversion


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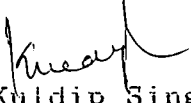
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with retrospective effect, the applicant had to incur financial loss of Rs.1300 per month for 17 months. In this regard he has brought our attention to the appeal made by the applicant on 8.6.99 available at Annexure A-5. As per their own admission by the respondents, the applicant had worked as JTA upto 30.9.98 and thus shouldered the higher responsibilities of that post and therefore the applicant could not have been reverted retrospectively w.e.f. 31.12.97 and therefore we are of the considered opinion that the instructions of DoPT dated 29.9.97 should not have been made applicable to the applicant in denying the salary of the post of JTA for the period from 1.1.98 to 30.9.98. As rightly contended by the applicant, he was not given any notice to this effect. Therefore we hold that the applicant is entitled to the salary of JTA for the aforesaid period.

6. In so far as applicant's contention that he should be regularised in the post of JTA, we are unable to agree in view of the fact that the post is to be filled up by direct recruitment and the applicant in response to the earlier advertisement was not found to be eligible. Therefore the respondents are permitted to go ahead with the release of advertisement for filling up the vacant posts in accordance with the existing R/Rules and extant instructions on the subject. If the applicant fulfils the conditions, he is at liberty to apply for the same and his case shall be considered by the respondents along with others.

7. The OA is disposed to the above extent. No costs.


(H.F. Singh)
Member(A)


(Kuldip Singh)
Member(JO)

/gtrv/

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