

Central Administrative Tribunal
Principal Bench

O.A. No. 1731 of 1999
M.A. No. 1811 of 1999
M.A. No. (unnumbered)

New Delhi, dated this the 27th AUGUST 1999

Hon'ble Mr. S.R. Adige, Vice Chairman (A)
Hon'ble Mr. Kuldip Singh, Member (J)

S/Shri

1. Manoj Kohli,
S/o Shri A.D. Kohli,
R/o A-29, Ashok Vihar-I,
Delhi.

2. Aslam Khan,
S/o Shri A.S. Khan

3. N.K. Tripathi,
S/o Shri J.K. Tripathi

4. Vakil Ahmad,
S/o Shri Idda Khan

5. M.K. Ahuja,
S/o Shri R.K. Ahuja

6. Kaleem Ahmad,
S/o late Shri Faizul Hassan

7. Nem Singh,
C/o Director of Prosecution
Room No. 170, Tis Hazari Courts,
Delhi.

8. Brijpal Singh,
S/o Shri Lahari Singh Applicants

(By Advocates: Shri B.B. Rawal with
Shri Manish Kohli)

Versus

1. Government of NCT of Delhi,
S, Sham Nath Marg,
Delhi-110054.

2. Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi-110001. Respondents

(By Advocates: Mrs. Avnish Ahlawat for R-1
Shri Rajinder Nischal for R-2)

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
Applicants seek a direction to respondents to

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discontinue the policy of hire and fire adopted by Respondent No.1 in appointing Asst. Public Prosecutors on ad hoc/temporary basis in the first instance and thereafter renewing it at their own sweet will at the convenience of Respondent No.1 after giving artificial breaks of one or two days and seek a direction that service of applicants are not liable to be terminated till all the 130 sanctioned posts of APPs in the Directorate of Prosecution of Government of NCT of Delhi are filled by regular appointment.

2. This O.A. came up for hearing on 10.8.99 on which date notices were issued to respondents to file reply within four weeks, with two weeks for rejoinder if any. On the prayer for interim relief pressed by applicants in the O.A. to restrain respondents from terminating the service of applicants till the disposal of the O.A., short notice was ordered to be issued to respondents returnable within two weeks, and meanwhile respondents were directed not to terminate the service of applicants till the next date, which was fixed two weeks hence on 24.8.99. Meanwhile official respondents had filed M.A. 1811/99 for vacation of the interim orders passed on 10.8.98.

3. On 24.8.99, Shri Manish Kohli appeared for applicants and Mrs. Ahlawat appeared for

respondents. Shri B.B. Raval who had filed vakalatnama on behalf of some applicants also appeared. All three were heard on the prayer for contained in m.A. No. 1811/99 for vacation of the interim orders and in the process the O.A. itself was heard. After hearing we reserved our orders.

4. Applicants themselves admit that they were initially appointed on ad hoc and emergent basis in May, 1995 for a contract period of 6 months, which was extended from time to time. Applicants do not deny that in June, 1999 a regular selection has been held by UPSC in which applicants also participated, but they have been unsuccessful as per results of the selection declared in August, 1999. We are informed by respondents' counsel Mrs. Ahlawat that pursuant to the declaration of those results, 59 candidates have been declared successful, of whom 30 have already joined, and the remaining 29 are in the process of joining. Applicants are not in the aforesaid list of 59 successful candidates.

5. With the declaration of the results of the regular selection, the first part of applicants' prayer, viz discontinuance of the policy of ad hoc/temporary appointments and extensions does not require any orders from the Bench. In so far as the direction sought for by applicants are concerned, even if, as contained by applicants, vacancies exist, they got no enforceable legal right to compel

respondents to continue or reengage them, they having admittedly been unsuccessful in the regular selection for the posts of APP held by respondents.

6. In the above facts and circumstances, the rulings in Dr. (Mrs.) Sangeeta Narang & Others Vs. Delhi Administration ATR 1988 (1) CAT 556; Bharatiya Dak Tar Mazdoor Manch Vs. UOI & Others JT 1987 (4) SC 164; P.M. Sunny Vs. State of Kerala 1986 CRI.L.J 1517; Dr. A.K. Jain & Ors. Vs. UOI & Ors. and connected cases 1987 (Supp.) SCC 497; Dr. (Mrs.) Prem Lata Choudhary Vs. ESIC (1987) 3 ATC 879 as well as the Delhi High Court order dated 9.6.99 in C.M. No. 5698 of 1998 in C.W. No. 3322 of 1998 D. Swaroop & Ors. Vs. Govt. of NCT of Delhi & Ors. is of no assistance to applicants.

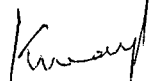
7. After the O.A. had been heard on 24.8.99, Shri B.B. Raval, Advocate who had filed his vakalatnama in the O.A. and was also heard that day, filed an M.A. (unnumbered) and mentioned the same in open court on 25.8.99 stating that he had not been furnished a copy of M.A. No. 1811/99 moved by respondents' counsel for vacating the interim orders and a copy of the aforesaid M.A. No. 1811/99 should be furnished to applicants to enable them to file a reply to the same, and furthermore respondents should be directed to produce records/details of appointment/selection process for the 61 posts subjudice in various O.As, pending before the


Tribunal.

8. Registry has correctly objected to this M.A. on the ground that no fresh filing of documents is permissible after orders are reserved.

9. As mentioned in earlier paragraphs we have heard both sides on the O.A. itself on 24.8.99 including Shri Raval. If Shri Raval was not served with a copy of M.A. No. 1811/99 before he was heard he should have raised the matter during hearing. The question of directing respondents to furnish him a copy of M.A. No. 1811/99 at this stage and to call for the record regarding appointments made, after hearing of the O.A. itself is over does not arise and this unnumbered M.A. is rejected.

9. In the light of the contents of the foregoing paragraphs this O.A. is dismissed, and interim orders are vacated. No costs.


(Kuldeep Singh)
Member (J)


(S.R. Adige)
Vice Chairman (A)

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