

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No. 2290/99

New Delhi: this the 7th day of September, 2000.

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A).

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Nathu Ram Yadav,

S/o Sh. Tek Ram,

R/o H. No. 107, Vill. & PO Bhalswa,

Delhi,

Working as Technician,

Director Transcription & Programme Exchange Service,

Directorate General,

Akashwani Bhawan,

IV Floor,

Parliament Street,

New Delhi -1

.....Applicant.

(By Advocate: Mrs. Meera Chhibber)

Versus

Union of India

through

1. Secretary,

Ministry of Information & Broadcasting,

Govt. of India,

Shastri Bhawan,

New Delhi-1

2. Chief Executive Officer,

Prasar Bharti,

Akashwani Bhawan,

Parliament Street,

New Delhi-1

3. Director General,

All India Radio,

Directorate General,

Akashwani Bhawan,

Parliament Street,

New Delhi-1

4. Director, Transcription & Programme,

Exchange Service,

Directorate General,

Fourth Floor,

Akashwani Bhawan,

Parliament Street,

New Delhi-1

.....Respondents.

(By Advocate: Shri R.V. Sinha)

ORDER

Mr. S.R. Adige, VC(A):

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Applicant impugns Annexure A-1 order dated 18.10.99 and seeks continuity of service as Technician w.e.f. 15.10.99 with all consequential benefits.

2. Admittedly respondents held selection for the post of Technician in 1993 and prepared a panel containing 3 names vide order dated 6.2.93 (Annexure-R 1) in which applicant who was working substantively as Peon was placed at Sl.No.3. The first two persons in the panel were absorbed as Technician in 1993 itself. Consequent to one Shri Onkar Singh vacating the post of Technician on/about 14.10.99, applicant was offered the said post on that date (Annexure-A2). Applicant accepted the offer on 15.10.99 (Annexure-A 3) and joined immediately.

3. Later, respondents by impugned order dated 18.10.99 reverted applicant to the post of peon with retrospective effect from 15.10.99.

4. Mrs. Chhibber has challenged the impugned order firstly on the ground that it was issued without putting applicant to notice, and secondly because it has reverted applicant retrospectively w.e.f. 15.10.99, which she contends is impermissible in law.

5. Respondents state that applicant was appointed against a post of Technician vacated by one Shri Onkar Singh in 1999 on the basis of a panel prepared in 1993 whose life had long expired. It is further stated that applicant was offered appointment on 14.10.99 which he accepted on 15.10.99. 16.10.99 and 17.10.99 were holidays. As soon as the error of applicant's appointment

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from a panel whose life had expired was detected, the impugned order was issued on 18.10.99, but realising that he was likely to be reverted, it is alleged that applicant disappeared. 19.10.99 was again a holiday. It is alleged that on 20.10.99 applicant put in a brief appearance in office and then disappeared without giving any intimation to the office and further proceeded on leave from 21.10.99 onwards. It is stated that he resumed his duties on his previous group 'D' post on 1.11.99 which applicant does not deny in his rejoinder.

6. Meanwhile applicant filed the present OA on 27.10.99.

7. It is not respondents' case that applicant's appointment as Technician in the vacancy created by Shri Onkar Singh vacating the post, was a stop gap or adhoc arrangement. What-ever the reasons which impelled respondents to revert applicant from the post of Technician, the impugned order entailed civil consequences and applicant should have been put to notice. Furthermore, even if the period of retrospective application of the impugned order was very short and was covered by holidays, the fact still remains that the order of reversion was retrospective in character. In this connection, the ratio of Punjab & Haryana High Court ruling in V. Chawla Vs. Chandigarh Admn. 1984(1) SLR 452 and in N. Behera Vs. State of Orissa & Ors. 155 Swamy's C.L. Digest 1993 and Anil Kumar Vs. UOI 156 Swamy's C.L. Digest, 1993 are fully applicable.

8. In the result the impugned order dated

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18.10.99 is quashed and set aside. Applicant should be reinstated as Technician forthwith. He shall however not be entitled to backwages as Technician for the intervening period as he has not worked as such. If respondents seek to revert applicant from the post of Technician for any reason whatsoever, they shall do so only after putting applicant to notice ^{and} in accordance with law. No costs.

A. Vedaivali
(DR. A. VEDAVALI)
MEMBER (J).

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A).

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