

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 718/99

New Delhi, this the 27th day of September, 2000.

Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)
Hon'ble Sh. Govindan S.Tampi, Member (A)

Shri M.S.Goel
S/o Shri Nand Kishore Goel
R/o 14, Vaishali Apartments
Vikaspuri, New Delhi - 18.

.....Applicant.

(By Advocate : Sh. A.K.Behra)

V E R S U S

1. Union of India
through Lt. Governor
Raj Niwas, Delhi.
2. Chief Secretary
5, Shamnath Marg
Govt. of NCT of Delhi,
Delhi.
3. Principal Secretary (Planning)
1, Kripa Narain Marg,
Delhi - 54.
4. Directorate for the Welfare of SC/ST,
through Secretary,
Old Secretariat
Delhi.

.....Respondents.

(By Advocate : Sh. Vijay Pandita)

O R D E R (ORAL)

By Hon'ble Mr. Justice V.Rajagopala Reddy, VC (J)

The applicant was working as Statistical Assistant, has been considered by DPC by promotion to the post of Research Officer on 17-6-92. He, along with the others, has been promoted on ad hoc basis by an order dated 27-7-92 till the regular appointments are made for the post of the Research Officer. In 1995, disciplinary proceedings have been initiated against him. During the pendency of disciplinary proceedings, regular appointments have been made to the post of Research Officer in 1996 and the applicant having been considered not promoted and his juniors

have been promoted in 1997. The applicant continued to work on ad hoc basis in the grade of Research Officer. The disciplinary proceedings have been completed and the final order was passed on 15-6-98 imposing the penalty of one increment for the period of two years in the grade of Research Officer and the punishment has been implemented w.e.f. 1-7-98. Apprehending that the applicant would be reverted, he filed the present OA on 30-3-99 seeking declaration that the applicant should not be reverted due to the penalty already imposed. While issuing notice, states quo order was passed by the Tribunal on the same date. However, he was reverted on 30-3-99 itself, to the post of Statistical Assistant.

2. It is the case of the applicant that as the disciplinary proceedings culminated in imposing the penalty the respondents should not have reverted the applicant particularly when his juniors have been promoted in 1997 and he was continued only on ad hoc basis.

3. Heard the counsel for the applicant and the counsel for the respondents. Learned counsel for the applicant Sh. Behra firstly contends that his promotion as a Research Officer by the order dated 27-7-92 was a regular promotion as the DPC had recommended his promotion. We do not agree. A perusal of the proceedings dated 29-7-92 shows that though the DPC recommended his case for promotion, the promotion was specifically made for a brief period of 6 months or till regular appointments are made under Direct Recruit Quota whichever is earlier. It is also



stated that the promotion would not confer any benefit on the applicant. It is, therefore, clear that the vacancies that were filled were the vacancies against Direct Recruitment Quota till regular appointments are made. The applicant could not be regularly appointed against the vacancies in the Direct Recruitment Quota. For that reason, the applicant and others have been promoted only on ad hoc basis. In 1997, DPC met to consider filling up posts on regular basis, but the applicant could not be promoted as disciplinary proceedings were pending against him at that time. It is stated by the learned counsel for the respondents that his name has been placed in the Sealed Cover.

4. The only question that arises in this case is whether the applicant was not liable to be reverted and the order dated 30-3-99 was illegal. It is the contention of Sh. Behra, that the punishment of withholding of increment was not a ^{far} to promote the applicant. We are not convinced. The penalty of withholding of the increment for two years, would be ^{in operation} ~~current~~ and it would expire only after completion of two years from 1-7-98. During the pendency of this penalty, the applicant is not entitled for promotion or for re-opening the Sealed Cover. So long as the penalty was operative, the applicant having been appointed only on ad hoc basis, has no right to continue. It is open to the authorities to revert him. Law is well settled that ^{an} ad hoc promotee has no right to continue in the promotion post. It has to be noted that the present OA was not filed seeking the relief of promotion, ^{but} it was only for declaration that he was not liable to be reverted. Unless and

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until, he was regularly promoted, he has no right to continue in the promoted post. The decision cited by the learned counsel for the applicant in S.C.Khurana and Anr. Vs. Lt. Governor, Delhi, 1991 (16) Administrative Tribunal Cases 191, has no application to the facts of the case. In that case after the vigilance case which has pending against the applicants therein was finalised and a simple non-recordable warning was issued to them. On that ground, it was directed that the order of reversion should not be given effect to and the interim order was made absolute. In the present case, the penalty being withholding on increment for a period of two years, the same analogy cannot be complied to this case. The OA is, therefore fails and accordingly dismissed.

5. It is, however, open ~~to~~ ^{to} the applicant to file a fresh OA, seeking regular promotion on opening the Sealed Cover as the period of penalty had expired by 30-6-2000.

6. Subject to the above observation, the OA is dismissed. No costs.

(Govindan S.Tampi)
Member (A)

V.Rajagopala Reddy
(V.Rajagopala Reddy)
Vice-Chairman (J)

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