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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1681 of 1996

New Delhi, this 3th day of May, 2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastri, Member(A)

J.K.Vohra
S/o O.P.Vohra
C/o Fertilizer Industry Coordination
Comittee
Ministry of Chemicals and Fertilizers
VIIth Floor, Sewa Bhawan
R.K.Puram
New Delhi-110066. Applicant

(By Shri Rajinder Nischal, Advocate)

versus

Union of India, through
Secretary to the Government of India
Department of Fertilizers
Ministry of Chemicals and Fertilizers
IInd Floor Shastri Bhawan
Dr Rajendra Prasad Road
New Delhi-110001. Respondents

(By Advocate: Shri D.S.Mahendru.)

Order (oral)

By Reddy, J.

The applicant was appointed as Messenger in 1980. he was promoted on ad hoc basis as a Lower Division Clerk (LDC, for short) in 1987 and continued as such without any break till 1995. The applicant filed OA.1418/91 before the Principal Bench for regularisation of his services as LDC. That OA had been disposed of by an order dated 13.8.1992, along with other OAs, by issuing the following directions:-

"Subject to the conditions that nominees of SSC are not waiting for regular appointments either under 5 per cent quota to be filled by qualifying examinations conducted by SSC or under 90 per cent quota for direct recruitment by the SSC -

(Signature)

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(i) such of the applicants as have put in continuous service of not less than one year and are qualified educationally and also in the typing test conducted by the SSC should be considered for regularisation as LDCs in consultation with the Staff Selection Commission. While doing so, the respondents shall, if necessary, relax the upper age limit for appointment as LDCs. Their regularisation should be on the basis of the evaluation of their work and conduct based on the ACRs, as was directed by the Hon'ble Supreme Court in Dr. A.K.Jain's case.

(ii) Such of the applicants as have not qualified in the typing test conducted by SSC should be allowed to take the full prescribed test for filling the post of LDC on regular basis against 5 per cent quota to be filled by qualifying examination or against 90 per cent quota for direct recruitment, according to rules by relaxation of age bar to the extent of ad hoc service.

(iii) The applicant(s) as have been reverted should be taken back on ad hoc basis, subject to available vacancy and subject to any ad hoc employee (not passed in typing test) still serving with lesser experience with no back wages.

(iv) None of the applicants who are on ad hoc basis should be reverted by replacement by other ad hoc employees. They can be reverted only when regular nominees of SSC are available. It may be reiterated that against regular nominees none of the applicants will have any claim to continue unless they have been regularised meanwhile in the manner indicated above."

2. As per these directions, the ad hoc LDCs who were in continuous service of not less than one year and possessing the necessary qualifications should be considered for regularisation as LDCs, even if necessary, relaxing the upper age-limit for appointment as

✓ LDGs. It was also directed that the applicants who were on ad hoc basis should not be reverted or replaced by other ad hoc employees and they should be only reverted by replacement by other ad hoc employees and they could reverted only when regular nominees of SSC were available.

3. In spite of clear directions given by the Tribunal, the respondents, it is stated, had not complied with the directions. The applicant filed CP.No.55/96. On 13.8.92 complaining that the directions given in the aforesaid OAs have not been complied with. But the same had been withdrawn, however giving liberty to agitate the matter by filing a fresh OA.

4. In the impugned order, the applicant has been reverted to the post of Messenger in 1996. The present OA is, therefore, filed questioning the order of reversion and seeking regularisation in the post of LDC.

5. The learned counsel for the applicant submits that though the applicant had been continuously working as LDC from 1987 till 1985 and in spite of clear directions given by the Court, the applicant has not been regularised, on the other hand, he has been reverted.

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6. The respondents state that the reversion of the applicant was done in accordance with the judgement dated 13.8.1992 in OA.1418/91 filed by the applicant. Learned counsel for the respondents, therefore, contends that the applicant is not entitled for regularisation and the order of reversion is in order.

7. We have given careful consideration to the pleadings as well to the arguments of the counsel on either side.

8. This is the second round of litigation of the applicant in search of his regularisation. The facts are not in dispute in this case. The applicant has been promoted as ad hoc LDC in 1987 and continued as such till 1995. In the OA filed by the applicant i.e., OA.1418/91 disposed of on 13.8.1992 the Tribunal has given clear directions to consider the case of all the ad hoc employees who have continued in service of not less than one year provided they fulfil the other conditions stipulated in the order for their regularisation. From the reply, we do not find any attempt having made by the respondents in making such consideration of the case of the applicant. As per the order of the Tribunal, the respondents had to consider the cases for regularisation. The respondents should have therefore taken an action in pursuance of the

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judgement within a period of six months at the maximum and pass appropriate orders. However it is stated that the applicant had not filed any representation seeking regularisation so that the respondents could consider his case ^{de} pending open ^{upon} his qualifications for the purpose of regularising the applicant in accordance with the judgement. Admittedly, the applicant has not made any representation till 1996. In the absence of such representation it may not be possible for the respondents to consider the case of the applicant.

9. In the circumstances, we dispose of this OA directing the respondents to consider the case of the applicants in terms of the judgement in OA.1418/91 dated 13.8.1992 within a period of three months from the date of filing a representation which shall be filed within a period of three weeks from today and pass an appropriate order strictly in accordance with the directions. Since a direction was already issued in the order dated 13.8.1992 not to revert the ad hoc employees except to replace regularly selected LDCs, we direct the respondents to promote the applicant to the post of LDC on ad hoc basis in any available vacancy of LDCs, within a period of three weeks from today.

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10. With the above directions, the OA is disposed of. No order as to costs.

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(Mrs. Shanta Shastray)
Member(A)

CM Rajagopal Reddy
(V. Rajagopala Reddy)
Vice Chairman(J)

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