

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

RA No. 115/98 IN
OA No. 1761/96

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New Delhi, this the 27th day of July, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

Shri Madan Mohan,
Cataloguer (Ad hoc)
Central Library,
Lady Harding Medical College &
Smt. Suchita Kriplani Hospital,
Shaheed Bhagat Singh Marg,
New Delhi.
(By Advocate: Sh. K.C. Mittal)

.... Applicant

Vs.

1. The Principal & Medical Superintendent
Lady Harding Medical College &
Smt. Suchita Kriplani Hospital,
Shaheed Bhagat Singh Marg,
New Delhi.
2. The Director General of Health Services,
Directorate General of Health Services,
Nirman Bhavan,
New Delhi.
3. The Secretary to Govt. of India,
Ministry of Health & Family Welfare,
Nirman Bhavan,
New Delhi.

.... Respondents.

(By Advocate: Sh. K.R. Sachdeva)

O R D E R

Hon'ble Shri T.N. Bhat, Member (J)

The applicant who had been appointed as a Cataloguer in LHMC College and S.K. Hospital, New Delhi on ad hoc basis on 17.12.86 continued to hold that post for nearly a decade. However, his services were not regularised. On the contrary, the respondents ordered his reversion to the substantive post of L.D.C. on 23.7.96. Later, however, the respondents granted extension to the applicant's appointment as Cataloguer for further two

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Months. Being aggrieved by the aforesaid action of the respondents in threatening the applicant with reversion from the post of Cataloguer the applicant filed OA 1761/95 in this Tribunal which was disposed of by the judgment/order of the Tribunal dated 2.4.97 by a Bench of which one of us (Sh: S.P.Biswas) was a Member. The order dated 23.7.96 by which two months extension was granted to the applicant in the service as Cataloguer subject to the condition that he should qualify in the two left over papers of Bachelor of Library and Information Science, failing which he would be reverted to his substantive post of L.D.C. was quashed. The respondents were directed to consider the regular appointment of the applicant to the post of Cataloguer whenever the next selection to the post is held, giving weightage to the long years of service which the petitioner had already put in and also to give him a relaxation in age. The respondents were asked to proceed on the basis that the petitioner had obtained all the necessary qualifications required under the Recruitment Rules. There was a further direction that till such selection takes place the ad hoc appointment of the applicant shall not be replaced by any other ad hoc appointment except by another regular appointment in accordance with the rules.

2. The applicant now seeks review of the aforesaid order on the ground that there is an error apparent on the face of the record. According to the applicant he had prayed for the relief on regularisation which he was entitled to get on the basis of the findings recorded by the Tribunal in the aforesaid judgment/order

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dated 2.4.1997, as the initial appointment though on ad hoc basis was made after due selection and in accordance with the rules in force at that time.

3. We have heard the learned counsel for the parties and have perused the material on record.

4. The respondents have resisted the review application on the ground that there is no error apparent on the face of the record nor is there any other ground disclosed on the basis of which the judgment/order could be reviewed.

5. The dispute in this case arose only because at the time of the applicant's recruitment on ad hoc basis there was no Recruitment Rules in force. ^{According to} the circular letter dated 24.10.1986 by which applications were invited from eligible group 'C' employees of the aforesaid institution, namely, the Lady Harding Medical College and Smt. Sucheta Kriplani Hospital, New Delhi, the qualifications prescribed were:-

- (a) BA: from recognised university with Certificate in Library Science
- (b) Knowledge of typing

The prescribed age was 18 years to 25 years (35 years for Government servants). Admittedly, the applicant had the requisite qualifications mentioned in the aforesaid circular letter.

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6. Later, however, Recruitment Rules were framed in the year 1990 which prescribed the following qualifications:-

- (a) Degree from a recognised university or equivalent
- (b) Diploma in Library Science of a recognised institution
- (c) Knowledge of typing

7. At the time of framing of the rules the applicant did not have the qualification of Diploma in Library Science though he had the qualification of Certificate in Library Science as prescribed in the circular notice dated 24.10.86.

8. Even though the applicant did not have the requisite qualifications prescribed in the 1990 rules he continued to work on ad hoc basis until the year 1996 when the respondents issued the order dated 23.7.1996 asking him to qualify in the Bachelor of Library and Information Science ^{by} ~~the~~ the end of August 1996, failing which he would be reverted to the substantive post of L.D.C.

9. As already mentioned, the aforesaid letter/office order dated 23.7.1996 was assailed by the applicant in OA-1761/96 in which the applicant claimed regularisation of his services as Cataloguer from the date of his initial appointment, i.e., 17.12.1986 and he also claimed the consequential benefits including seniority and promotion etc.

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10. The real question that fell for determination in the OA was as to whether at the time of his initial appointment the applicant had passed any selection and whether he had the requisite qualifications according to the rules then in force. As becomes clear on a reading of the judgment/order dated 2.4.1997, while making his submissions the learned counsel for the review applicant had contended that the applicant had been holding the post on ad hoc basis in accordance with the extant rules which required graduation with a Certificate in Library Science and that even after the amended Recruitment Rules came into force in the year 1990 the applicant continued to hold the post on ad hoc basis till the time the respondents issued the order dated 22.7.96 by which the applicant was granted time to pass the Bachelor of Information Science examination by the end of August 1996. It has been held by the Bench which disposed of the OA that the review applicant did complete both the remaining papers though not by 31.8.1996 but by 28.2.1997. In these circumstances the applicant rightly claims regularisation as against the mere consideration of his candidature along with others on some future date. The law is now well-settled (See Jacob M. & Others vs. Kerala Water Authority & Others - 1990 (6) SLR 54) that if the initial appointment on ad hoc basis has been made in accordance with the rules in force at that time the employee is entitled to regularisation, especially so when he continues to hold the post on ad hoc basis for a long time. In the instant case the applicant continued to hold the post on ad hoc basis for nearly a decade. We are,

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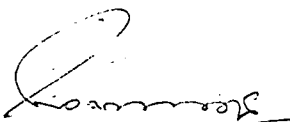
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therefore, convinced that this is a case of error apparent on the face of the record when a relief which was admissible to the applicant was not granted to him.

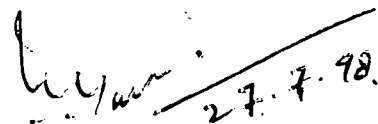
11. We, accordingly, in exercise of the powers of review, hereby modify the judgment/order dated 2.4.1997 to the extent indicated hereinbelow:

We quash the order dated 23.7.1996 as at Annexure A-1 to the OA and further direct the respondents to regularise the services of the applicant w.e.f. the date when he acquired the qualification of Bachelor in Library and Information Science. The request of the applicant for regularisation from the initial date of his appointment, i.e., 17.12.1986 is, however, declined.

12. With the above order, the review application is disposed of, leaving the parties to bear their own costs.


(S.P. BISWAS)
Member (A)

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(T.N. BHAT)
Member (J)