

9

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2894/97

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

New Delhi, this the 24th day of July, 2000

1. Shri K.S.Sauran
s/o Shri Chuni Lal
H.No.29/832
Gali No.1,
Dev Nagar
Sonipat - 131 001.(Haryana).

2. Shri R.K.Jain
s/o Shri J.P.Jain
E-1/11, Krishna Nagar
Delhi - 51.

... Applicants

(By Shri P.M.Ahlawat, Advocate)

Vs.

1. Union of India through
The Secretary
to the Government of India
Department of Supply
Ministry of Commerce
Nirman Bhawan
New Delhi.

2. The Director General of
Supplies & Disposals
Department of Supplies
5, Sansad Marg
New Delhi - 110 001.

... Respondents

(By Shri S.Mohd. Arif, Advocate)

O R D E R (Oral)

By Justice Rajagopala Reddy:

The applicants were promoted as Assistant Directors Group 'B' in 1986 and 1987 respectively, on ad hoc basis. Subsequently, they were regularly appointed on 22.2.1995. The grievance of the applicants is that they should have been regularised w.e.f. the date of initial ad hoc appointment in 1986 and 1987. The learned counsel for the applicants submits that the applicants having worked uninterruptedly since 1986 and 1987 and as their promotions were regularised in 1995, the



10

- 2 -

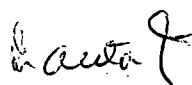
regularisation should relate back to their initial ad hoc promotion. The learned counsel for the respondents however submits that as they were appointed on ad hoc basis as a stop-gap arrangement, and not against any regular vacancy, and that they were regularised in 1995 in clear vacancy as per rules, the applicants cannot make any claim for regularisation with retrospective effect.

2. We have given careful consideration to the contentions raised in this case. A perusal of the orders of promotion dated 18.3.1986 and 3.12.1987, makes it clear that they were initially promoted for a period of six months from the date they assume charge or till regular Assistant Directors, Grade-II become available whichever is earlier. Thus their initial appointments were not as per rules. Admittedly, no DPC met on those dates. Subsequently, the regular promotion has been made by following rules and as per the recommendations of the DPC, and the applicants were appointed against the clear vacancies. It is stated by the respondents that in 1995 out of 18 vacancies 50% vacancies are to be filled up by promotion. The applicants are therefore filled up in those vacancies. We are, therefore, of the view that the applicants are not entitled for the relief of retrospective promotion.

3- The learned counsel for the applicants relies upon The Direct Recruitment Class II Engineering Officer's Association and Ors. Vs. State of Maharashtra & Ors., 1990 SCSLJ page 1. In fact the decision of the Supreme Court in the said case clearly

Rao

shows that when appointment is made on ad hoc basis, or as stop gap arrangement but not according to the rules, the period of officiation should not be counted for seniority. The applicants are covered by the ratio of this Judgement. The applicants also rely upon the State of West Bengal and Others Vs. Aghorenath Dey and Others, 1993(3) SCC Page 371. This decision also goes against the case of the applicants. This decision only explains the ratio in the State of Maharashtra Engineer's case (supra). The OA therefore fails and is accordingly dismissed. No costs.


(SMT. SHANTA SHASTRY)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/s