

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.1483 of 1994.

New Delhi, dated this the 22nd August, 1994.

Shri N.V.Krishnan, Hon. Vice Chairman(A)
Shri C.J.Roy, Hon. Member(J)

Rita Chopra,
D/o Shri M.L. Vhopra,
R/o 227, Bhoor Bharat Nagar,
Ghaziabad, U.P.

...Applicant

By Advocate: Shri C.L. Sekhar.

versus

1. Union of India,
Ministry of Health & Family Welfare,
New Delhi, through
Secretary.
2. Director General of Health Services,
Government of India,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi.
3. Director,
Government of India,
Food Research & Standardisation Laboratory,
Navyug Market,
Ghaziabad (U.P.) ...Respondents

By Advocate: None.

O R D E R (Oral)

By Hon. Vice Chairman Shri N.V. Krishnan.

The applicant is aggrieved by the Annexure-I order dated 7.2.94, by which her services have been terminated. The applicant was offered appointment by the letter dated 19.2.90 (Annexure-III) on the post of Stenographer Grade-D on a purely adhoc basis pending availability of regular nominee of the Staff Selection Commission to whom the post had already been notified. One specific condition for appointment is indicated in para-2 of that order, which makes it clear that the appointment will be terminated if a regular nominee of the Staff Selection Commission is available. It is in pursuance of this condition that the office order dated 7.2.94 was

issued stating that the services of the applicant have been terminated from 7.2.94 as a nominee of the Staff Selection Commission, Allahabad has joined in the forenoon of 7.2.1994.

2. The learned counsel for the applicant was asked to state how the applicant can have grievance in these circumstances and what right the applicant has for regularisation in the post, despite these circumstances. He has drawn our attention to a judgement of the Rajasthan High Court in the case of Ramdas Vs. National Seeds Corporation (1992 LLR 279). We have seen that judgement. ~~We have seen~~ ^(Q) ~~that judgement.~~ We find that it is totally inapplicable to the facts of the present case. For, in that case the petitioner was a Seed Production Assistant for 11 years and yet was not being regularized. There was no condition that he can be replaced by a regular employee.

3. He has submitted that the applicant has a right to regularisation in the light of the judgement of the Hon'ble Supreme Court in the case of Piara Singh (1992(4)-SCC-118). He draws our attention to para 49 of the report, which states that if for any reason, the ad hoc appointment is continued for a longer spell, the authorities must consider the case of the ad hoc appointee for regularisation, provided he is eligible and qualified according to the rules and his services must be satisfactory and the appointment does not run counter to the reservation policy of the Government. He further points out from para 24 of the report

(5)

dealing with the earlier decision of the Supreme Court in the case of Jacob M. Puthuparambil Vs. Kerala Water Authority (1991(1)-SCC-28) that directions were issued to regularise the workers employed by the Authority between 1.4.84 and 4.8.86, provided they have essential qualification and fulfils the eligibility criteria. They have further directed that workers appointed after 4.8.86 should also be regularised, if they have put in continuous service of not less than one year. We have seen that judgement. The interpretation placed by the learned counsel on these directions are not correct.

4. Para 49 of the report is based on the decision in Dharwar District PWD Literate Daily Wage Employees Association Vs. State of Karnataka (1990(2)-SCC-396) where 5000 labourers, were being employed on daily rate basis for 15-20 years. Hence directions were given to regularize them. The applicant here has been in employment only for 4 years and that too on conditional basis.

5. In so far as the directions given in Kerala Water Authority is concerned, it has to be noted that those directions were given in view of the provisions of Rule 9(1) of the Kerala State and Subordinate Services Rules, which provide that persons appointed on ad hoc basis may also be regularised, provided they complete two years of service.

6. What is important to note is that in para 45 of the report (supra), the Hon'ble Supreme Court has observed as follows:-

6

"The normal rule, of course, is regular recruitment through the prescribed agency but exigencies of administration may sometimes call for an ad hoc or temporary appointment to be made. In such a situation, effort should always be to replace such an ad hoc/temporary employee by a regularly selected employee as early as possible. Such a temporary employee may also compete along with others for such regular selection/appointment. If he gets selected, well and good, but if he does not, he must give way to the regularly selected candidates. The appointment of the regularly selected candidates can not be withheld or kept in abeyance for the sake of such an ad hoc/temporary employee"

7. Here the ad hoc appointment is to subsist only till a regularly selected candidate is available for appointment. The ad hoc appointee can not claim to continue despite the availability of a regularly selected candidate. He has to give way to the regularly selected candidates.

8. In the circumstances, we find that the applicant has no right to continue after the candidates selected by the Staff Selection Commission has reported for duty. Therefore, this application is dismissed as devoid of merits. No costs.

W.S.T.M.
(C.J. ROY)
MEMBER(J)

22/8/84
(N.V. KRISHNAN)
VICE-CHAIRMAN(A)

/kam/