

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

R.A. No.62/2006 In
O.A. No.736/2000

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New Delhi this the 10th day of May, 2006

Hon'ble Shri V.K. Majotra, Vice Chairman (A)
Hon'ble Shri Mukesh Kumar Gupta, Member (J)

Smt. Panje Bala Gupta
W/o Shri Sunil Gupta
R/o H.No.2434, Gali No.13,
Kallash Nagar,
Delhi-110 031.

-Applicant

Versus

1. Union of India,
Through the Secretary,
Government of India,
Ministry of Textiles,
Udyog Bhawan, New Delhi-110 011.
2. The Development Commissioner (Handloom),
Ministry of Textile,
Udyog Bhawan,
New Delhi-110-011.
3. The Senior Director,
National Handicrafts & Handlooms Museum,
Office of Development Commissioner (Handloom)
Ministry of Textiles, Pragati Maidan,
New Delhi-110 001.

-Respondents

ORDER (By Circulation)

Hon'ble Shri V.K. Majotra, Vice Chairman (A)

By virtue of this application, has been sought review of order dated 03.03.2006 whereby OA-736/2000 was allowed in certain terms; 'to the extent a direction has been issued to the respondents for taking appropriate steps as per relevant rules for filling up the post expeditiously on a regular basis and also for providing opportunity to the applicant to participate in such selection, etc'. An exception has been taken to Tribunal's direction to the respondents for taking appropriate steps as per relevant rules for filling up the post expeditiously and also for providing opportunity to the applicant to participate in such selection. It has been contended that there was no need to direct the respondents for filling

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up the post on regular basis and that such a direction is an error apparent on the face of record.

2. It has been stated that the post of Gallery Assistant was advertised to be filled up on temporary basis and though respondents had used the word 'on ad hoc basis', the aforesaid post was of regular nature. Applicant's appointment had all characteristics of regular appointment being on the basis of open selection. Applicant had been appointed in accordance with the Recruitment Rules and as such her appointment has to be treated as on regular basis.

3. We have considered this application on the basis of the averments made here as also on the basis of the record of OA-736/2000.

4. As per Annexure A-4, one vacancy of Gallery Assistant was advertised in the Employment News dated 28.04.1990 in scale Rs.1200-2040 (pre-revised) on temporary (Ad hoc) basis 'for a period not exceeding one year or till such time this post is filled up on regular basis, whichever is earlier'. Clearly, the advertisement was for filling up one post of Gallery Assistant on temporary (ad hoc) basis for a period not exceeding one year where after it was required to be filled up on regular basis. Subsequently, applicant was offered the post of Gallery Assistant vide Annexure A-7 dated 23.05.1990 'on ad hoc basis for a period of one year or till such time the post is filled up on regular basis, whichever is earlier'. This offer contained the following conditions:-

i) Her services can be terminated at any time without assigning any reasons/notice.

ii) Her appointment as Gallery Assistant is purely on ad hoc basis for a period of one year only.

iii) She will be entitled to pay and allowances at the minimum of the scale i.e. Rs.1200 p.m. plus usual allowances in the pay scale of Rs.1200-2040 (pre-revised) attached to the post of Gallery Assistant.

iv) The adhoc appointment will not confer upon her any right for regularization, claim for seniority and any other preferential treatment".

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5. Applicant agreed to the above terms and directions and was appointed on the post of Gallery Assistant vide Annexure A-8 dated 24.5.1990 in the pay scale of Rs.1200-2040 'on purely ad hoc basis' for a period of one year w.e.f. 24.05.1990 to 23.5.1991 or till such time the post is filled on regular basis, whichever is earlier'. It was made clear in these orders that 'the ad hoc appointment will not confer upon her any preferential claim for regularization, seniority etc'.

6. Applicant's claim that her appointment was in the nature of regular appointment and not ad hoc, has been considered in detail in Tribunal's orders. Various case law cited on behalf of the applicant as enumerated below has been considered in Tribunal's orders:-

"(1) Order dated 31.1.2003 in WP (C) No.2110/1990 (High Court of Delhi)- *Subhash V Lt. Governor of Delhi*;

(2) *Ancop Jaiswal v Government of India* [AIR 1984 SC 636];

(3) *Jarnail Singh v State of Punjab* [AIR 1986 SC 1626];

(4) *Smt. Rajinder Kaur v Punjab State & anr.* [AIR 1986 SC 1790];

(5) *Apar Apar Singh v State of Punjab & Ors.* [1971 (2) SLR 1971];

(6) *Madan Mohan Prasad v State of Bihar & Ors.* [1973 (1) SLR 639].

7. On behalf of respondents, Delhi High Court's decision dated 9.4.2001 in *Delhi State Industrial Development Corporation Ltd. V J.K. Thakur* [2002 (2) SLJ 29] was also considered.

8. In the facts and circumstances of the case as also case law, it was held that "applicant's appointment had acquired some but not all the characteristics of a regular appointment". Thus, ultimately, the post had to be filled by the respondents on a regular basis but in view of applicant having worked on a regular post, though temporarily, it was directed that applicant had also to be invited to appear in the selection when the post was to be filled on regular basis.

The advertisement, the terms and conditions of the offer of appointment and

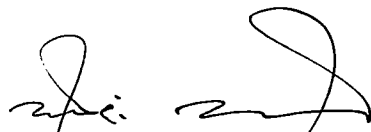
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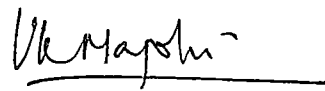
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those of the letters extending applicant's term indicated that applicant could at the most be continued on the post of Gallery Assistant on a temporary basis till such time that the post was filled on a regular basis.

9. In the facts and circumstances of the case as discussed above as also in the Tribunal's orders after taking into consideration all contentions raised on behalf of the applicant, no other conclusion and directions than those taken/made in Tribunal's orders could have been taken/made. There is no error apparent on the face of record in Tribunal's orders.

10. The present application is merely an attempt to re-argue the case, which is not within the scope and ambit of a review application. The RA, therefore, is dismissed, in circulation.


(Mukesh Kumar Gupta)
Member (J)


(V.K. Majumdar)
Vice Chairman (A)

cc.