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Central Administrative Tribunal
Principal Bench

O.A.1550/2000

with

O.A.2754/1999

New Delhi this the 5th day of November, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

Hon'ble Shri G.S. Tampi, Member(A).

Hon'ble Shri Shankar Raju, Member(J).

O.A.1550/2000

1. Ms. Madhu,
S/o Shri Hari Singh,
R/o 54, Sector-11,
Noida (UP).
2. V.P. Sewalia,
S/o Shri G.S. Sewalia,
R/o 49/4, North West Moti Bagh,
New Delhi-110021.

... Applicants.

(By Advocate Shri G.K. Aggarwal)

Versus

1. Union of India through
the Secretary,
Ministry of Urban Development &
Poverty Alleviation,
Nirman Bhawan,
New Delhi.
2. The Director General (Works),
Central Public Works Dept.,
Nirman Bhawan,
New Delhi-110011.

... Respondents.

(By Advocate Shri Mohar Singh)

O.A.2754/1999

1. Shri Chaman Lal,
L-3262, Ram Nagar Extn.,
Shahdara,
Delhi.
2. Mr. Kashi Ram,
27-D, MIG Flats,
Pocket-A,
New Delhi.
3. Shri B.L. Joya,
S/o Shri Binja ram,
R/o 82A, DDA Flats,
Gulabi Bagh,
New Delhi.

... Applicants.

(By Advocate Shri M.P. Raju)

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Versus

1. Union of India
through its Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.
2. Director General of Works,
Central Public Works Department,
Ministry of Urban Affairs & Employment
Nirman Bhawan,
New Delhi. ... Respondents.

(By Advocate Shri S.K. Gupta)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

The Full Bench reference has been made by the order passed by the Division Bench (DB) dated 28.5.2001 in Ms. Madhu & Anr. Vs. Union of India & Anr. (O.A.1550/2000).

2. In another case Chaman Lal & Ors. Vs. Union of India & Ors. (OA 2754/99), by order dated 22.5.2001, it has been stated that in view of the conflicting views expressed in O.A.1550/2000, the same DB has referred the question to the Larger Bench. Hence, both the O.As (O.A.1550/2000 and O.A.2754/1999) have been tagged together.

3. The reference in question for adjudication by the Larger Bench reads as under:

".... as to whether in accordance with DOP's instructions contained in O.Ms dated 30.4.83 and 30.9.83, when regular promotions are made the ad hoc appointees should be reverted strictly in the reverse order of seniority in the feeder grade, the junior most candidate being reverted first, even if he was appointed on ad hoc basis prior to his senior in the feeder grade, or whether the ad

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hoc appointees should be reverted on the principle of "last in point of time to be promoted, first to go" irrespective of seniority in the feeder grade".

4. In order to deal with the aforesaid question, it would be necessary to see the relevant paragraphs (e) and (f) of the Govt. of India, DOP&T O.M. No.36011/14/83-Estt (SCT) dated 30.4.1983 read with the O.M. dated 30.9.1983 which have been referred to in the reference which read as follows:

"Whenever ad hoc promotions are made in exceptional circumstances (such as during pendency of Court cases, protracted seniority disputes, etc.) though there is no formal reservation for SCs and STs in such promotions the claims of officers belonging to those communities who are eligible should also be duly considered along with others eligible in the field. The following guidelines have been laid down to consider their claims against ad hoc promotions:-

(a) to (d) x x x x x x x

(e) When regular promotions are made, all ad hoc appointees should be reverted strictly in the reverse order of seniority, the juniormost candidate being reverted first, no special concession is to be given to SC/ST candidate at the time of such reversion.

(f) No separate formal roster need be maintained for ad hoc promotions and the concept of dereservation carrying forward of reservation, etc. will also not apply. A simple register called 'Ad hoc Promotion Register' may be maintained for different categories of posts of which ad hoc appointments are made for ensuring reversions in the proper order on making regular promotions".

While dealing with the aforesaid provisions of the DOP&T O.Ms, the Tribunal in Harmeet Singh Vs. Union of India & Ors. (O.A.57/2000) in order dated 1.5.2000 has held that the contentions raised by the applicants as also the official respondents are substantially the same. We respectfully reiterate those views in the present reference. Shri G.K. Aggarwal and Shri M.P.

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Raju, learned counsel for applicants and Shri Mohar Singh, learned counsel for official respondents, have also submitted that the provisions of the DOP&T O.Ms are to be followed in such cases dealing with reversion of ad hoc appointees on higher posts when regularly appointed promotees are available. This is to be done on the principle of what can be referred to as "reverse seniority". The DOP&T O.M. has specified that when regular appointments are made of ad hoc appointees in the reverse order of seniority, the junior-most candidate is reverted first. We need not deal with the question of concessions to SC/ST candidates in this reference as that is not relevant for our purpose. In the circumstances of the case, we find ourselves in agreement with the views expressed by the DB order dated 1.5.2000 in Harmeet Singh's case (supra) which are in conformity with the aforesaid DOP&T O.Ms dated 30.4.1983 and 30.9.1983.

5. It is relevant to note that in the reference order to the Larger Bench in order dated 28.5.2001 in Ms. Madhu's case (supra), there is no specific reference as such to the issues raised in Chaman Lal's case (supra) Shri S.K. Gupta, learned counsel for respondents in that case has raised the issues regarding the question of reversion of an ad hoc appointee from a higher post if in the exigencies of administrative service he had been promoted later than his senior in the adhoc higher post. His contention is that in such a case, the junior who has been promoted later to his senior on ad hoc promotion

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cannot be reverted earlier in terms of the aforesaid DOP&T O.Ms. We are unable to agree with this contention. In paragraph 4 above, where reference has been made to paragraph 2 (f) of the DOP&T O.Ms. dated 30.4.1983 and 30.9.1983, it is clearly provided that a simple register called a "Adhoc Promotion Register" is to be maintained for different categories of posts and accordingly, reversions on the availability of regularly promoted candidates should be done in accordance with paragraph (e) of the O.Ms. The so called exceptional circumstances referred to by the learned counsel for respondents in **Chaman Lal's** case (supra) are also fully taken care of as far as ad hoc promotions are concerned in the DOP&T O.Ms itself which we find are legal and not arbitrary to call for any interference. We are fortified in the view that we have taken by the Constitutional Bench Judgement of the Hon'ble Supreme Court in **G.S. Ramaswamy & Ors. Vs. Inspector General of Police, Mysore** (1964 (6) SCR 279 at page 291). In that case, the Supreme Court while dealing with the question of reversion of persons who had been promoted on officiating basis in higher grades has held as follows:

"....Now r. 2(c) (of the Mysore Seniority Rules, 1967) as it stands merely provides for seniority between persons officiating in a higher rank when they are officiating as such; it is not an express rule as to the manner in which reversion should be made where reversions are necessary on account of exigencies of service. The rule therefore cannot be held as expressly providing for the principle of "last come first go" with which one is familiar in industrial law. Strictly speaking therefore the petitioners cannot claim that r.2(c) has been violated by their reversion, for it does not provide for reversion and only provides for the seniority of officers who are officiating in a higher grade. Even so, it may be conceded that when reversion takes place on

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account of exigencies of public service, the usual principle is that the junior-most persons among those reverted to make room for the senior officers coming back from deputation or from leave etc. Further ordinarily as promotion on officiating basis is generally according to seniority, subject to fitness for promotion, the junior-most person reverted is usually the person promoted last".

(Emphasis added)

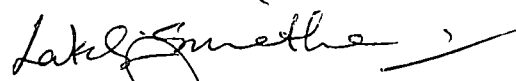
The aforesaid principle laid down by the Hon'ble Supreme Court regarding reversion of persons who had been promoted on officiating basis in higher grades in the exigencies of service is the same principle that has been followed by the Govt. of India, DOP&T O.Ms. dated 30.4.1983 and 30.9.1983. These lay down the principle that junior-most persons among those who have been promoted on ad hoc basis or officiating basis are reverted when senior officers return from deputation or from leave or are appointed on regular basis as in the present case, etc. In the circumstances of the case, we are of the view that the DOP&T O.Ms are clear. They have also provided that an ad hoc promotion register is to be maintained by the Department, which has to be followed at the time of reversion under any of the exigencies referred to above. In this view of the matter, we do not find any force in the submissions made by Shri S.K. Gupta, learned counsel regarding the fact that the original seniority of the concerned officers in the feeder grade will have any bearing on the issues raised in the present reference, as regards reversion of ad hoc appointees on promoted posts when regular appointees become available.

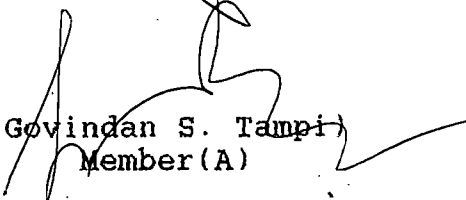
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6. In view of what has been stated above, our answer to the reference reproduced in para 3 above, is that the ad hoc appointees should be reverted on the principle of "last in point of time to be promoted, first to go" irrespective of seniority in the feeder grade. In other words, the DOP&T O.Ms dated 30.4.1983 and 30.9.1983 shall be applicable to the facts and circumstances of the case.

7. Accordingly, O.A.1550/200 and O.A.2754/1999 may be returned to the concerned DB for further action.


(Smt. Lakshmi Swaminathan)
Vice Chairman(J)


(Govindan S. Tampi)
Member(A)


(Shankar Raju)
Member(J)

'SRD'

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Central Administrative Tribunal
Principal Bench

New Delhi, dated this the 1st January, 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

O.A.1550/2000 ✓

1. Ms. Madhu,
S/o Shri Hari Singh,
R/o 54, Sector-11,
Noida (UP).
2. V.P. Sewalia,
S/o Shri G.S. Sewalia,
R/o 49/4, North West Moti Bagh,
New Delhi-110021. ... Applicants.

(By Advocate Shri G.K. Aggarwal)

Versus

1. Union of India through
the Secretary,
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Poverty Alleviation,
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New Delhi.
2. The Director General (Works),
Central Public Works Dept.,
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New Delhi-110011. ... Respondents.

(None appeared)

O.A.2754/1999

1. Shri Chaman Lal,
L-3262, Ram Nagar Extn.,
Shahdara,
Delhi.
2. Mr. Kashi Ram,
27-D, MIG Flats,
Pocket-A,
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3. Shri B.L. Joya,
S/o Shri Binja ram,
R/o 82A, DDA Flats,
Gulabi Bagh,
New Delhi. ... Applicants.

(By Advocate Proxy counsel
for Dr. M.P. Raju)

Versus

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1. Union of India
through its Secretary,
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Nirman Bhawan,
New Delhi.
2. Director General of Works,
Central Public Works Department,
Ministry of Urban Affairs & Employment
Nirman Bhawan,
New Delhi. ... Respondents.

(By Advocate Shri S.K. Gupta)

ORDER (Oral)

S.R. ADIGE. VC (A)

Heard both sides on both O.As

2. Both O.As are disposed of in terms of CAT Full (Principal) Bench order dated 5.11.2001 in which it has been held that the ad hoc appointees should be reverted on the basis of "last in the point of time to be promoted first to go irrespective of seniority in the feeder grade" i.e. Dept. of Personnel & Training O.Ms. dated 30.4.83 and 30.9.83 would be applicable in the facts and circumstances of the case.

3. In the light of the foregoing in O.A. No. 1550/2000, the impugned order dated 3.11.99 as far as the two applicants are concerned is quashed and set aside, and the two applicants should be placed back as ad hoc Executive Engineer (Electrical) as they were prior to the issue of the impugned order dated 3.11.99 as long as any body was promoted as ad hoc EE(E) later in point of time to them, and has been continued as ad hoc EE (E). Applicants would

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also be entitled to such consequential benefits including backwages as are admissible in accordance with rules and instructions and judicial pronouncements on the subject.

4. In so far as O.A. No. 2754/99 is concerned, it is also disposed in terms mutatis mutandis of the directions given in O.A. No. 1550/2000, and contained in the foregoing paragraphs and should be followed by respondents to the extent the same covers the fact and circumstances of O.A. No. 2754/99.

5. Both O.As stand disposed of accordingly.
No costs.

6. Let a copy of the order be placed in each case record.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

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(S.R. Adige)
Vice Chairman (A)

MA for execution of order