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In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. Nos.:

Date: 25.5.1990.

1. OA-1939/89
2. OA-1940/89

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| 1. Shri J.R. Peters & 4 Ors. | } Applicants |
| 2. Shri Vinod Kumar Saxena
and 3 Others | |

Versus

Union of India through
Department of Supply &
Others Respondents

For the Applicants Shri T.C. Aggarwal, Advocate

For the Respondents Shri P.P. Khurana, Advocate

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *No*

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice-Chairman)

In the Department of Supply, there are posts of Comptometer Operators and Junior Machine Operators for whom the channel of promotion is to the post of Computer/Senior Machine Operator, who in turn, have their channel of promotion to that of Economic Investigator. The applicants in OA-1939/89 are substantive holders of the posts of Comptometer/Junior Machine Operator and they have held the promotional posts of Computer on ad hoc basis for several years. The applicants in OA-1940/89 are substantive holders of the posts of Computer who have been promoted as Economic Investigators on ad hoc basis. They claim that by virtue of their holding the promotional posts for a number of years, they must be

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treated as having been regularly appointed and that they should not be reverted to their substantive posts. Accordingly, the relief sought in OA-1939/89 is that the applicants be regularised against the posts of Computer w.e.f. the date of their initial appointment, while the relief sought in OA-1940/89 is that the applicants be regularised against the posts of Economic Investigator from the date of their initial appointment (though by a typographical error in para.8 of OA-1940/89 it has been mentioned that the applicants, in OA-1940/89 be regularised in the posts of Computer on which, admittedly, they have already been regularised).

2. As common questions of law have been raised in these applications, it is proposed to deal with them in a common judgement.

3. We have carefully gone through the records of these cases and have heard the learned counsel for both the parties. The applicants in OA-1939/89 are still continuing in the posts of Computer and those in OA-1940/89, in the posts of Economic Investigator on ad hoc basis and they have not been reverted. The Tribunal has also passed interim orders restraining the respondents from reverting them from their respective posts.

4. The learned counsel for the applicants has relied upon numerous rulings in support of the contention that the applicants deserve to be regularised in their respective posts from the date of their initial appointment.*

Cases cited by the learned counsel for the applicants:

AIR 1976 S.C. 1766; 1971 S.L.R. 414; 1984 (1) SLJ 76; 1986 (4) S.L.R. 701; A.T.R. 1988 (1) C.A.T. 196; 1987 (3) S.L.J., C.A.T. 26; A.T.R. 1987 (2) CAT 377; A.I.R. 1981 S.C. 477; 1988 (1) S.L.R. 353, 395, and 607; A.I.R. 1988 S.C. 1979; 1971 S.L.R. 1971; A.I.R. 1981 S.C. 1775; 1988 (1) S.L.J. (S.C.) 168; 1987 (1) ATLT 385; and 1983 S.C.C. (L&S) 467.

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5. The respondents have contended that none of the rulings cited by the applicants, has a bearing on the facts and circumstances of the present case.

6. Courts have deprecated the practice of filling up of posts on ad hoc basis for a number of years without making regular appointment. There are instructions issued by the Department of Personnel & Training in this regard. However, occasions may arise when ad hoc appointments/promotions will have to be resorted to, pending availability of vacancies for making regular appointments/promotions. This is what has happened in the two applications before us.

7. The respondents have stated in their counter-affidavit in OA-1940/89 that there are 37 posts of Economic Investigator out of which one is filled by direct recruitment, 31 by promotion on regular basis, 4 by promotion on ad hoc basis, and 1 by temporary adjustment of Junior Machine Operator. Four posts of Economic Investigator were filled by ad hoc promotion of the applicants in OA-1939/89 against short-term vacancies arising out of deputation of the regular incumbents of the posts to ex-cadre posts, etc. They have stated that the applicants would be considered for promotion as Economic Investigator on regular basis in their turn against the promotion ^aquota vacancies in that grade arising from time to time. At present, there is no regular vacancy of Economic Investigator and ^a whenever any such vacancy occurs, they have stated that the same will be filled up as per the recruitment rules.

8. Similarly, the applicants in OA-1939/89 have been promoted on ad hoc basis as Computers, in view of the ad hoc promotions given to the applicants in OA-1940/89 from the ^a

post of Computer to that of Economic Investigator. The respondents have stated that four of the applicants have been promoted as Computers against the four short-term vacancies arising out of ad hoc promotions of regular incumbents to the higher grade and one vacancy arising out of deputation of a regular incumbent to an ex-cadre post. They have further stated that the applicants will be considered for promotion as Computers on regular basis in their turn against the promotion quota vacancies in that grade arising from time to time. At present, there are no regular vacancies in the grade of Computers.

9. In the above factual background, the only order that could be passed on these applications is that the respondents shall fill up the posts of Computers and Economic Investigators on regular basis in accordance with the recruitment rules, whenever vacancies become available. Till then, the applicants shall be allowed to continue in the promotional posts on ad hoc basis. When the applicants are appointed on regular basis, they would be entitled to reckon their seniority from the date of their initial promotion as Computer/Economic Investigator, as the case may be.

10. The applications are disposed of with the aforesaid directions.

There will be no order as to costs.

Let a copy of this order be placed in both the case files.

D. K. Chakravorty
(D.K. Chakravorty)
Administrative Member

25/5/90

P. K. Kartha
(P.K. Kartha)
Vice-Chairman(Judl.)