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CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

O.A. No.1951/1989

New Delhi, dated this 23rd day of September 1994.

HON'BLE MR. P.T. THIRUVENGADAM, MEMBER (A)

HON'BLE MR. T.L. VERMA, MEMBER (J)

Mrs. Gita Chakravarty,
W/o Shri A.N. Chakravarty,
R/o 1/12, R.K. Puram,
New Delhi-22
Employed as Commercial Artist
in the Office of Development Commissioner
(Handicrafts), West Block VII,
R.K. Puram,
New Delhi-22.

... Applicant

By Advocate: Shri R.P. Oberoi.

Versus

1. Union of India through
Secretary,
Ministry of Textiles,
Udyog Bhavan,
New Delhi-11.

2. Development Commissioner (Handicrafts),
West Block VII, R.K. Puram,
New Delhi-22.

... Respondents.

By Advocate: Shri Madhav Panikar.

O R D E R

Hon'ble Mr. T.L. Verma.

The applicant, who was appointed as Commercial Artist on purely temporary and on adhoc basis in all India Handicraft Board, Ministry of Industry ~~of Industry~~, New Delhi by order dated 3rd February 1978 (Annexure-III), has filed this application for issuing direction to the respondents to treat her as a regular employee throughout and confirm her on the said post with retrospective effect.

2. The brief facts giving rise to this application are as follows:

Shri H.N. Bhattacharya, a permanent incumbent of the post of Commercial Artist, was selected and appointed as Senior Artist in the DAVP, Ministry of Information and Broadcasting. He, however, was allowed to retain his ⁱⁿ on the post he held in the office of the Development Commissioner (Handicrafts) for a period of 2 years. The post vacated by him was referred to Union Public Service Commission in November 1976 for being filled up by the method of direct recruitment as per the Recruitment Rules. The Union Public Service Commission, in turn, demanded from the respondents, a certificate to the effect that the duration of the vacancy is for more than 3 years to enable them to invite application for the said post. The required certificate was not given by the respondents, since Shri Bhattacharya was allowed to retain his ^{on the post} ~~in~~ for a period of 2 years with effect from 8.6.1976. The post was, thereafter, referred to the Employment Exchange for sponsoring names of suitable candidates for appointment on the said post. The Employment Exchange sponsored names of 12 candidates including the applicant. The applicant was selected and was offered the post by Memo dated 31-12-77 (Annexure-II). The applicant ~~was~~ accepted the offer on the terms and conditions as contained in the Memo of Annexure-II and was accordingly appointed on the said post vide Annexure-III. ~~and~~ She has been serving on the said post continuously since then. The applicant claims to have acquired a right to hold the post by virtue of her having put in more than 15 years continuous service and hence this application for the relief mentioned above.

3. The application has been opposed by the respondents. It is stated that according to Recruitment Rules, the post of Commercial Artist is to be filled up by direct recruitment

in consultation with the Union Public Service Commission that and the prayer of the applicant, therefore, cannot be allowed.

4. We have heard the rival contention and perused the record. It is not in dispute that the post of Commercial Artist, according to the Recruitment Rules, is required to be filled up by direct recruitment in consultation with the Union Public Service Commission. It is also not in dispute that the appointment of the applicant on the post was purely on temporary and on adhoc basis. The letter of appointment is being extracted below for convenience of reference:

"Kumari Gita Chatterjee, has been appointed Commercial Artist, on purely temporary and on adhoc basis, in the All India Handicrafts Board, Ministry of Industry, New Delhi, in the scale of pay of Rs.550-25-750-EB-30-900, with effect from 31-12-1977 (AN).

2. She will draw pay at the minimum of the scale, plus usual allowances as admissible under the rules.

3. Her services are liable to be terminated at any time without any notice and without any reasons being assigned."


It is also worth mentioning that before the appointment letter was issued, the applicant was asked to accept the offer on the condition mentioned in Memo in Annexure-II. In the Memo, it was clearly mentioned that the appointment will be purely on temporary and on adhoc basis and that her services are liable to be terminated at any time without giving notice and without any reason being assigned.

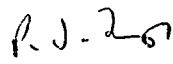
5. In view of the terms of appointment accepted by the applicant and having regard to the Recruitment Rules, the mere fact that she has remained on the said post for over 15 years will not entitle her to claim regularisation on the said post as of right. That being so, this Tribunal is not in a position to issue directions as prayed for.

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6. In view of the fact that the applicant has worked on the said post continuously for over 15 years in ^{the} hope of being regularised on the said post ^{she} deserves consideration if Rules permit. for regular appointment. It is expected that the respondents will consider the desirability of appointing her on regular basis by relaxing the rules, if necessary. From the records it does not appear that the respondents have at any point of time made any attempt to sound the applicant to seek appointment elsewhere, as her appointment was likely to be terminated at any time. As they have allowed her to continue on the said post, it is all the more necessary for the respondents to take a sympathetic view in the matter and make all efforts within the frame of rules to get her appointed on regular basis.

7. In view of the discussion made above, this application is disposed of with the above observation. There will be no order as to cost.


(T.L. VERMA)
MEMBER (J)


(P.T. THIRUVENGADAM)
MEMBER (A)

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