

(14)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 2451/89.

Date of decision. 3.6.94

HON'BLE SHRI S.R. ADIGE, MEMBER (A)

HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

1. D.S. Chanaya,
s/o S. Karam Singh,
r/o K-24, Fateh Nagar,
New Delhi-110 018.

2. Jiwan Kumar,
S/o Shri Bal Kishan Dass,
r/o 230, Vikas Kunj, Vikas Puri,
New Delhi.

... Applicants

(By Advocate Shri Mahesh Srivastava)

versus:

1. Union of India, through Secretary,
Ministry of Home Affairs,
Govt. of India, New Delhi.

2. Delhi Administration,
service to be effected
through Chief Secretary,
Delhi.

3. Administrative Officer,
Delhi College of Engineering,
Kashmere Gate,
Delhi.

... Respondents

(By Advocate Mrs. Avnish Ahlawat)

O_R_D_E_R

[Hon'ble Smt. Lakshmi Swaminathan, Member (Judicial)]

The two applicants in this case have filed this application under Section 19 of the Administrative Tribunals Act, 1985 seeking regularisation of their appointments in the post of Senior Scientific Assistant (SSA), for which they claim that they have been selected and posted vide communication dated 1.3.1985 from the Respondents (Annexure 'A')

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2. The Respondents have denied the allegations made by the applicants that they have been selected and empanelled as SSA from 1985 or any date earlier. According to the Respondents, the applicants were appointed in the post on purely ad hoc and emergent basis for a specific period of 3 months with effect from 1.3.1985 and have not been working in the post as claimed by them. However, their period of ad hoc appointments have been renewed/extended from time to time giving breaks therein. Each time the orders of ad hoc appointments have been issued afresh. The last period of their ad hoc appointments had expired on 7th August, 1989 and was not extended further in view of the fact that process of appointment on regular basis was in the final stage i.e. calling the candidates for Trade Test and Interview.

3. It is an admitted fact that applicant No. 1, Shri D.S. Chanaya had retired during the pendency of this application and only applicant No. 2, Shri Jiwan Kumar is continuing in the ^{Junior} post of Mechanic Grade 'A'.

4. We have heard the learned counsels for the parties. On perusal of the appointment orders dated 1.3.1985 (Annexures 'A' ^{1, 2}), it is clear that the applicants had been appointed purely on ad hoc basis for a period

of 3 months which has subsequently been extended from time to time. It is settled law that such ad hoc appointments do not entitle the incumbents for regularisation automatically without complying with the relevant rules for such regularisation.

5. The Respondents have stated that the Trade Test was conducted in 1984 for the post of SSA in which the applicants were also candidates, but the final stage of interview and selection was not held because of the Govt. of India's ban on filling up the post imposed vide Delhi Administration's letter dated 5.10.1984. / the Respondents have issued subsequent appointment orders continuing the applicants on ad hoc basis only. The Respondents have states that the post of SSA is required to be filled 50% through direct recruitment/open selection and 50% by promotion failing which by direct recruitment. They have stated that the applicants' demand for regularisation could not be considered in view of the fact that the post fell under direct recruitment quota. The Respondents have, therefore, submitted that the applicants are not entitled to be regularised in the post of SSA from 1985 or any earlier date.

6. As the applicants were only holding the posts of SSA on an ad hoc basis, their request for

/After the ad hoc
appointment order
dated 1.3.1985

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regularisation cannot be acceded to de hors the rules. However, the learned counsel for the respondents submitted at the bar that in the case of the second applicant, Shri Jiwan Kumar, who is still in service, they would take necessary steps to regularise the appointment, but in the case of applicant No.1 who has already retired, no such relief can be given. At the hearing, the learned counsel for the applicants also submitted copies of two certificates dated 19.5.94 and 17.5.94 issued by Professor and Head of the Civil Engineering Department to the two applicants, respectively. The learned counsel for the respondents has, however, not admitted the correctness of these certificates. Apart from this, these certificates do not appear to be in accordance with the orders issued by the Government indicating regular appointment of the applicants in the post of S.S.A. In the circumstances, these certificate also cannot be relied upon by the applicant in furtherance of their claims.

7. In the facts and circumstances of the case,

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the application fails. The Respondents may, however, proceed to take necessary action to regularise applicant No.2 in the post of SSA according to rules expeditiously. There will be no order as to costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member(J)

S.R. Adige
(S.R. Adige)
Member(A)