

25

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-2565/89 with
MP- 531/90 and
MP-3110/90

Date of decision: 26.2.1992

Shri Subhash Chand & Ors. Applicants

Versus

Union of India & Ors. Respondents

For the Applicants Shri G.D. Gupta, Advocate

For the Respondents Smt. Gita Luthra, Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *Yes*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The 14 applicants before us have worked as Enumerators/Coders/Data Feeders in the Delhi Administration for the last 2-4 years. These appointments were made pursuant to the implementation by the Delhi Administration of a programme called 'Urban Basic Services Programme' with the financial assistance given by the UNICEF and the Central Government. The applicants have sought for a declaration

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that their appointments be treated as having been made on regular basis and that they be allowed to continue in service on that basis.

2. On 22.12.1989, the Tribunal passed an interim order to the effect that the services of the applicants shall not be terminated and that no person shall be appointed in their place. The interim order thereafter has been continued till the case was finally heard on 27.1.1992 and orders reserved thereon.

3. The applicants were sponsored by the Employment Exchange for appointment and were selected in the interview held by the respondents for the posts of Enumerators/Coders/Data Feeders. One of them is a postgraduate while some others are graduates, and some ~~xxx~~ have passed intermediate examination or 12th class. During the period of service, they have performed various duties entrusted to them, such as rolling the photostat papers on cyclostyle machine, working P.C. on computer, work in stores, stenotyping, cash dealing, record keeping, etc. The details of the duties performed by them have been mentioned at Annexure A-3 on page 26 of the paperbook.

4. The case of the applicants is that though they were initially appointed on daily-wage basis, realising the need for continuing them on a permanent basis, the respondents had proposed to sanction permanent posts in

which they could be appointed. The learned counsel for the applicants referred to the notings on the relevant file of the Department in this regard. When the applicants claimed regularisation, the respondents are stated to have taken a decision in the file to terminate their services w.e.f. 31.12.1989 and call for fresh names from the Employment Exchange. The applicants sent a representation to the respondents on 19.12.1989 to which no reply was received by them.

5. The contention of the respondents is that the applicants were appointed under the Urban Basic Service Programme to which they were receiving financial assistance ^{from the UNICEF} to the extent of 40 per cent and from the Central Government to the extent of 20 per cent. The UNICEF assistance has since been phased out towards salary w.e.f. 1.1.1990. There are no posts or vacancies available in which the applicants could be adjusted.

6. The applicants have filed MP-531/90 in which they have prayed that the respondents be directed to produce the relevant files containing the notings/decisions relating to making the posts of Enumerators/Data Coders/Feeders as a part of the regular establishment, extension of the appointments of the applicants and/or the files containing the notings regarding calling fresh names from

28/

the Employment Exchange and all other connected documents. During the hearing, the learned counsel for both the parties referred to the notings in the relevant files and presented their respective contentions.

7. We have carefully gone through the records of the case and have considered the matter. The respondents themselves have stated in their counter-affidavit that there is a proposal to create five posts each of Enumerators and Data Coders. The applicants have produced the documents of the Delhi Administration, wherein it has been proposed to change the designation of some of the posts held by them into that of Field Supervisor in the Planning, Monitoring, Valuation and Computer Cell of the Delhi Administration. This is contained in the O.M. dated 29.5.1990 issued by the Ministry of Finance relating to the Demands for Grants 1990-91 under the Head 'U.B.S. Project Activities'. The proposal includes, creation of 8 posts of Field Supervisors, 8 posts of Data Coders/Data Entry Operators, among others. They have also contended that they are performing general office duties as Clerks/Typists, Stenographers, Bill Assistants, Stores Incharge, etc. They have denied that their work is of collection of data in the field level.

8. The respondents have, however, contended that the above mentioned posts of Enumerators and Field Supervisors are different and that the applicants cannot lay a claim to these posts. The learned counsel for the respondents

however, fairly stated that the respondents have nothing to complain about the work and conduct of the applicants and that in case regular posts are created, they would be given priority if they are eligible. According to the respondents, the post of Field Supervisor involves supervisory work at grassroot level like field works, area volunteers, Creche workers and Basti level, RCVs who are engaged in social work. The background required for the post of Field Supervisor should be that of social work so as to understand different social problems faced by the urban community whereas for the post of Enumerators, persons required should be from Mathematical/statistical background and should also have an aptitude to collect data and do coding work. The position mentioned in the Revised Estimates 1989-90 for Enumerators were required only at that time and now that the work is over, no posts are required.

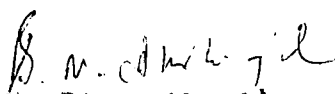
9. The fact remains that the work for which the applicants were engaged, has not ceased to exist. There is also justification for creation of posts in which the applicants could be accommodated. The applicants have become over-aged for other government jobs by now. The applicants have gained practical experience in doing the various types of work arising under the Urban Basic Services Programme for which they had been initially engaged. The

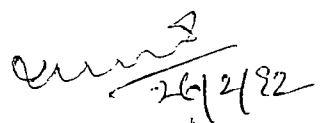
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respondents could give to the applicants orientation training, if necessary, in order to cope with their future requirements. To our mind, the proposal to change the designations of the posts and induct fresh recruits overlooking the claims of the applicants, would be a retrograde step.

10. In the conspectus of the facts and circumstances of the case, the application is disposed of with the direction to ^{the respondents} ~~the respondents~~ to accommodate the applicants in their present posts and take steps to regularise their services as in regular posts, treating them as forming a separate block. Till they are so regularised, they shall be continued in their present posts. The interim order passed on 22.12.89 and continued thereafter directing that the services of the applicants shall not be terminated and no person shall be appointed in their places, is hereby made absolute. There will be no order as to costs.


(B.N. Dhoundiyal),
Administrative Member


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