

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

1. O.A.No.500 of 1989.

Date of Decision: 4th March 94

B.C.Parcha, s/o Shri C.S.Parcha,
r/o Technical Assistant,
Films Division,
4, Tolstoy Marg,
New Delhi

By Shri S.K.Basaria, AdvocateApplicant.

Versus

Union of India
through Chief Producer,
Films Division, 24, Dr. Deshmukh Road,
Bombay-26Respondent
By Advocate Shri P.P.Khurana

2. O.A.No.577 of 1989

1. Suresh Bhagwani
s/o Shri H.N.Bhagwani, aged 45 years,
r/o Section 3-139/14,
M.B.Road, New DelhiApplicants

2. S.N.Singh, s/o Shri J.Singh
r/o Sector 3-139/14, MB Road, New Delhi

VERSUS
Union of India through

1. Chief Producer, Film Division,
24, Dr. Deshmukh Road, Bombay-26.

2. Joint Chier Producer, Film
Division, 4 Tolstoy Marg,
New Delhi

By Advocate Shri P.P.Khurana,Respondents

3. O.A.No.716 of 1993.

1. B.C.Parcha s/o Late Shri C.S.Parcha,
C/o Technical Assistant,
Films Division,
4, Tolstoy Marg,
New Delhi.

2. Suresh Bhagwani,
s/o Shri H.N.Bhagwani,
r/o C-125, Vikas Puri
New Delhi.

3. S.N.Singh,
s/o Late Shri J.Singh
r/o 139/14 Sector I,
M.B. Road,
New Delhi

By Advocate Shri S.K.BasariaApplicants

Versus

1. Union of India through
Chief Producer, Films Division,
24, Dr. Deshmukh Road,
Bombay-26.

2. Union of India through

through
Secretary,
Ministry of Information & Broadcasting,
New Delhi Respondents

CORAM:

Hon'ble Mr. Justice B.C.Saksena, Vice-Chairman (J)

Hon'ble Mr. S.R.Adige, Member (A)

ORDER

Hon'ble Mr. S.R.Adige, Member (A).

In O.A.No.500/89 and O.A.No.577/89, the applicants, all of whom are working as Technical Assistant in the Films Division, Ministry of Information and Broadcasting, New Delhi on adhoc basis since different dates, have prayed for regularisation with effect from the dates of their adhoc appointments.

2. The dates of their adhoc appointment are given below:-

O.A.No.577/89

1. Shri Suresh Bhagwani	21.8.81
2. Shri S.N.Singh	16.10.85.

O.A.No.500/89

Shri B.C.Parcha	16.12.85.
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3. In O.A.No.716 of 1993, the above mentioned three applicants have prayed for promotion as Superintendent from the post of Technical Assistant along with other similarly situated persons.

4. As these three O.As are interconnected and for the sake of convenience, they are being taken up together.

5. Admittedly, the posts of Technical Assistant are to be filled in in the following manner:-

1. Direct recruitment -25%

2. Promotion on selection basis -25%

3. Promotion on the basis of common departmental

examination -50%

6. Admittedly, the 25% vacancies to be filled in by promotion on selection basis are from the feeder cadre of UDCs. It is also admitted that the three applicants were appointed as Asstt. Superintendent purely on adhoc basis. There is, a specific written indication in the relevant appointment order, a copy of which was filed with the counter affidavit by the respondents that these appointments were purely adhoc and would not prejudice the claims of others or confer any right on the appointee for regular appointment. The respondents have pointed out in their counter affidavit that these adhoc appointments were made due to exigencies of work, in the public interest in view of the ban on direct recruitment against vacancies which would have been filled by direct recruitment according to the quota roster. It has also been pointed out by the respondents that the applicants are not the senior most on the basis of All India Seniority in the feeder cadre.

7. From the materials on record, it is clear that the post of Technical Assistant is a selection post, promotion to which has to be made through a DPC. It would appear that since 1985, the DPC had met on five occasions and considered eligible officials for promotion to vacancies. On each occasion, the DPC met, the applicants either did not come within the zone of consideration or could not secure placement in the panel. On 16.1.89, the DPC considered

the eligibility of officials for promotion to those vacancies and applicant No.1 (in O.A.No.577/89) Suresh Bhagwani came within the zone of consideration. His name was considered for a vacancy which occurred in 1987 and his name was placed in the panel but in view of the Tribunal's interim order dated 17.3.89 directing the continuance of the applicant on the post of Technical Assistant, the order appointing him to the post equivalent to the post of Accountant was not issued. *Prima facie*, we have no reason to doubt the averments made in the counter affidavit. The appointment on adhoc basis is invariably a stop-gap-arrangement. The appointment letter itself states that it will confer no right or prejudice the claims of others. The fact that these adhoc appointments have continued since 1989 by virtue of interim orders passed by this Tribunal, does not strengthen the applicant's case in any manner.

8. The applicants have alleged that some persons ~~wrongly~~ have been inducted as Technical Assistants from the surplus cell but the relevant instructions do not debar the respondents from doing so, and in fact the persons in the surplus cell have priority for redeployment as per statutory rules.

9. The applicants have also sought to derive support from certain rulings, namely AIR 1992 SC 1574 N.S.K Nair Vs. UOI, AIR 1992 2157 State of Haryana Vs. Piara Singh, AIR 1985(4) SC 43, AIR 1991 (4)SC 141 Tejinder Singh Vs. State of Punjab; and 1988(1)SLR 353 Satish Kumar Vs. Cane Commissioner UP. None of these rulings are of much relevance in these cases, as the facts in those cases are clearly

distinguishable from the facts in the present cases, and moreover, the period of these adhoc appointments, counted from the date of the appointment order till the date the O.A. was filed, is also not of ^{unduly} long duration. As stated by the respondents, the applicants are not the seniormost in the All India seniority list, and if their prayer for regularisation is acceded to without considering their seniors, it would adversely affect the rights of those senior to them in the All India Seniority list, none of whom have been impleaded by the applicants in these O.As.

8. In the result, O.A.No.500/89 and O.A.No.577/89 have no merit and are accordingly dismissed. The interim orders are hereby vacated.

9. In so far as O.A.No.716/93 is concerned, the question of promotion of the applicants to the post of Superintendent would arise only if they have five years' regular service as Technical Assistant. As the applicants have been functioning as Technical Assistant on adhoc basis and they lack the essential qualification of five years' regular service, they are not eligible for the higher post of Superintendent. This application has also no merit and it is accordingly dismissed.

10. There shall be no order as to costs.

Adige
(S.R. ADIGE)
MEMBER(A)

Bo. Sakse
(B.C. SAKSENA)
VICE-CHAIRMAN(J)