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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

O.A.No. 613 of 1989

New Delhi this 25<sup>th</sup> of March, 1994.

CORAM:

Hon'ble Mr. J.P.Sharma, Member(J)

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

P.P.Tuteja, s/o Shri Girdhar Gopal,  
r/o 199-F, Aram Bagh, New Delhi.

Investigator,  
Office of Town & Country Planning  
Organisation,  
Ministry of Urban Development,  
E Block, Vikas Bhawan, I.P.Estate,  
New Delhi .....Applicant.  
By Advocate Shri P.P.Khurana.

Versus

1. Union of India  
through Secretary to the  
Government of India,  
Ministry of Urban Development,  
Nirman Bhawan,  
New Delhi.

2. The Chief Planner,  
Town & Country Planning Organisation,  
Ministry of Urban Development,  
E Block, Vikas Bhawan, I.P.Estate,  
New Delhi

By Advocate Shri M.L.Verma, .....Respondents.

ORDER

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

In this application, Shri P.P.Tuteja, Investigator  
Office of Town & Country Planning Organisation,  
Ministry of Urban Development, New Delhi has  
prayed for a declaration that he has been regularly  
appointed as Investigator in the present scale  
of Rs.1400-2300/- with effect from the date of  
his initial appointment, i.e. 30.9.77, together  
with consequential benefits and meanwhile to  
restrain the respondents from reverting him from  
the post of Investigator presently held by him.

2. The applicant joined the office of Chief Planner, TCPO, Ministry of Urban Development, New Delhi as a LDC on 2.4.70 on regular basis through the Employment Exchange. At the time of joining service, the applicant was a mere Higher Secondary pass individual, but during the course of his tenure as LDC, he completed his M.A. in Economics with Statistics. In 1977, the respondent no.2 selected three candidates including the applicant as a departmental candidate for the post of Investigator, and as the applicant fulfilled the required qualifications as per the recruitment rules, he was appointed as Investigator on adhoc basis with effect from 30.9.77, in the scale of Rs.425-700/- (pre-revised). During the period from 31.7.80 to 9.11.82, he was sent on deputation to the High Power Panel on Minorities, Scheduled Castes, Scheduled Tribes and other Weaker Sections, Home Affairs' Ministry, New Delhi (Annexure-1). In the deputation order dated 31.7.80, it was stated that he would continue to hold lien on the post of LDC in his parent Organisation of TCPO. Meanwhile, on 4.2.82, the applicant applied for the ex-cadre post of Research Assistant, Western Ghat Project in the TCPO. He was called for interview on 17.6.82 and was selected for the said post. By order dated 26.11.82 (Annexure-5), he was appointed to the said ex-cadre post of Research Assistant in the scale of Rs.550-900/- on contract basis w.e.f. 9.11.82. By office order dated 24.9.83 (Annexure-6), he was ordered to be reverted to the regular post of Investigator w.e.f. 1.10.83 and continued against that post till 30.9.83. By office order dated 6.12.83 (Annexure -7), consequent on his selection he was sent on deputation to the

Minorities Cell, Home Affairs Ministry w.e.f. 6.12.83 and continued against that post till 11.12.87. On his reversion to his parent Organisation, the applicant vide office order dated 16.12.87 (Annexure-9) was appointed as Investigator(adhoc) w.e.f. 11.12.87. It was stated in the said office order that the applicant's appointment as Investigator was purely adhoc and was liable to be terminated at any time without any notice. It was further stated that the appointment would not confer any right for the applicant's regular continuance on the post or seniority in that grade. On 17.2.88, an office order (Annexure-10) was issued fixing the applicant's salary at Rs.1720/- in the scale of Rs.1400-2300/- and admissible for Investigator w.e.f. 11.12.87. Thereafter, the applicant made representations praying for regularisation against the post of Investigator and meanwhile for continuance of adhoc appointment against that post. He also requested for modification of recruitment rules for the post of Investigator for individuals such as him who had attained the age of 39 years to become eligible to apply for the post of Investigator through Staff Selection Commission(SSC). In reply he was informed on 13.3.89(Annexure-12) that his request had been considered but could not be accepted. *Apprehending reversion, the applicant sought the protection of this Tribunal.*

3. A perusal of the office order dated 30.9.77(Annexure-15) clearly shows that the applicant was appointed as Investigator on adhoc basis w.e.f. 30.9.77 till the nominee of Subordinate Services Commission became eligible. The recruitment rules for the post of Investigator in the TCPO lays down that the said post is to be filled 100% by direct recruitment. Under the circumstances, the

prayer of the applicant for regularisation as Investigator can be acceded to only after relaxation of the rules. Shri P.P. Khurana, learned counsel for the applicant has cited the judgment of this Tribunal in the case O.A.No. 1917 'Rakesh Kumar Gaur & another Vs. Union of India & others' and connected case in support of the applicant's prayer for regularisation. However, those cases can be distinguished from the present case inasmuch as in those cases, the entire process of direct recruitment including written examination, interview, medical examination, police verification etc. was conducted and all the necessary ingredients of direct recruitment were present. The only feature that was absent was that the Union Public Service Commission was not consulted. Hence in that judgment, it was directed that the services of the applicants be regularised in consultation with the UPSC and upon evaluation of their confidential reports. In the present case, before us, however, those vital ingredients of direct recruitment are not present, and in fact, the office order dated 30.9.77 clearly states that the applicant is being appointed as Investigator on adhoc basis w.e.f. 30.9.77 till the nominee of Subordinate Services Commission became eligible.

5. Having stated that, however, it must be noted that the applicant was appointed as Investigator on adhoc basis as far back as 30.9.77, and between that date and now, which is a period of nearly 16½ years, he has continued to serve as Investigator, or has been deputed to post even at higher pay scale carrying increased responsibilities. ~~During~~ <sup>of</sup> this entire period, the applicant has continued uninterruptedly as Investigator since

28.3.89, the date the interim order was passed directing the respondents not to revert the applicant from the post of Investigator to the post of LDC.

There is nothing to indicate that the applicant's services have been unsatisfactory during this entire period, because if it were so, he would not have been selected on deputation to posts carrying higher responsibilities. The respondents have also admitted that the applicant possesses the necessary qualifications as well as experience for the post, and it is not their case that it has become necessary to displace the applicant to accommodate persons duly selected for the post occupied by him. In this connection, in the case of 'State of Haryana & others Vs. Piara Singh & others' reported in 1992 (21)ATC 403, their Lordships of the Hon'ble Supreme Court while laying down certain directions concerning the issue of the regularisation of adhoc/temporary employees in Government service have observed as follows:-

"If for any reason, an adhoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularisation, provided he is eligible and qualified according to rules and his service record is satisfactory and his appointment does not run counter to the reservation policy to the State."

6. The applicant has also averred that at the time of his appointment as Investigator on 30.9.77, seven posts of Investigators were lying vacant in TCPO and even as on date, there are five vacancies.

N This averment has not been challenged by the respondents

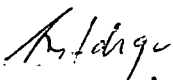
7. Shri Khurana has also relied upon the judgment of this Tribunal in O.A.No.39 of 1985 'M.D. Patwardhan & others Vs. Director, Central Hindi Directorate & another' decided on 3.11.92. In that O.A., three applicants were appointed as Research Assistant in Central Hindi Directorate purely on adhoc basis in September, 1992 and were continuing to serve in their respective posts ever since then. The Tribunal noted that as those petitioners possessed the requisite qualifications, and had been serving in their respective posts since a long period without interruption and it would be neither in the interest of the petitioners nor that of their employers that the adhoc appointment should continue for unduly long period as has been done in that case, it was just and proper that the services of the petitioners should be regularised from the respective dates of their regular appointment on adhoc basis in consultation with the UPSC and on evaluation of their confidential records.

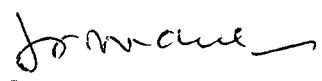
8. In this connection, we note that in the office order dated 24.9.83 (Annexure-A6), it has been stated that the applicant is being reverted to his regular post of Investigator. No doubt, in their counter affidavit the respondents have stated that this was not factually correct and the applicant has also not claimed that he was working on regular basis, but it is also a fact that no corrigendum was issued.

9. In the background of the above facts and having regard to all the circumstances of the

case, we consider it just and proper to dispose of this application with the following directions:-

- 1) The applicant may submit an appropriate representation within a period of one month from this date to the authorities seeking regularisation of his services with a request to relax the relevant rules.
  - 2) The respondents shall consider the applicant's request with the utmost sympathy, bearing in mind that the applicant has rendered satisfactory service as Investigator or on higher posts for nearly 16½ years, and pass necessary orders within three months of the date of receipt of the applicant's representation. The circumstances of the case eminently justify sympathetic consideration being shown to the request of the applicant by relaxing the relevant rules.
  - 3) Until a decision is taken on the request for regularisation as aforesaid, the services of the applicant shall not be reverted.
9. With these directions, this application is disposed of. No costs.

  
(S. R. ADIGE)  
MEMBER(A)

  
(J. P. SHARMA)  
MEMBER(J)

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