

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

CA.No.657/1989

New Delhi, dated the 25th Feb., 1994

Hon'ble Mr.N.V.Krishnan, Vice Chairman(A)  
Hon'ble Sh. B.S. Hegde, Member(Judicial)

Shri Ishwar Dayal  
S/o late Behari Lal,  
R/o Quarter No.332,  
Near Balak Ram Hospital,  
Timarpur, Delhi.7

... Applicant

(None for the applicant )

Versus

Union of India,  
through :-

1. Chief Producer,  
Films Division,  
24 Dr. Deshmukh Road,  
Bombay-26.
2. Joint Chief Producer,  
Films Division,  
4- Tolstoy Marg, New Delhi

... Respondents.

ORDER(ORAL)

(Hon'ble Sh.N.V.Krishnan, Vice Chairman(A))

None for the parties, though this case has been called out twice. This matter is listed at sl.No.2A in today's cause list under regular matters with a note to the counsel that the first 10 cases are posted peremptorily for final hearing. As none is present for the parties we proceed to pass final order after perusal the records.

2. The applicant is a class-IV employee under the respondents i.e. Film Division Department, of the Ministry of Information and Broadcasting. He joined in July, 1970. By the Ann.A.3 order dated 10.6.87, the applicant was appointed as Assistant Editor, Grade-II a class-III post. The order made it clear that the appointment was purely on an adhoc basis and did not confer on him any right for regular appointment.

3. While so, when he felt that due to the OM dated 30.3.1988 of the Department of Personnel (Ann.A.1) relating to adhoc appointment, the respondent might revert him on 31.3.1989, he filed this application seeking a direction to the respondents that the applicant should be regularised in the post of Asstt.Editor from the date of his initial appointment.

4. It is stated that regular deptt. examination for the purpose of promotion to the post of Assistant Editor was held on 19.8.86 and 21.8.1986. This is for the purpose of selection for such promotion from amongst class-IV staff of Film Division. The result was declared on 15.9.86 (Ann.A.4) and a panel of 9 persons has been prepared in the order of merit. The applicants name figures at serial No.9. The Department has also issued Recruitment Rules which were notified on 30.4.1987. The applicant has filed extracts relating to the Recruitment Rules to the post of Asstt.Editor (Ann.A.2) which indicates that

25% posts will be filled up by promotion and the balance by direct recruitment.

5. It is subsequent to promulgation of these Rules that the applicant was appointed by the Ann.A.3 order as Assistant Editor on <sup>an</sup> adhoc basis.

6. The applicant claims that he can not be reverted from this post as he is fully qualified for the promotion and has been selected on the basis of a regular departmental examination.

7. When the matter came up on 31.3.1989 an Ad. interim order was passed which directed the respondents that the applicant shall not be reverted from the post held by him in case he had not been reverted.

This order has been continued on 24.5.89 until further orders. The respondents have filed a reply. It is stated that according to the Recruitment Rules only 25% of the posts can be filled up by promotion. The total number of posts is 30 as seen from the Ann.

A.2. Therefore, only 7 persons from the class-IV could be promoted. It is true that a departmental examination was held for the purpose of such promotion. However, the name of the applicant is at serial No.9 while there are only 7 posts to be filled up by promotion.

8. As there was a ban on Direct Recruitment, the applicant was given an ad-hoc promotion by the Ann.A.4 order. In the meanwhile, the Department of

Personnel issued a circular dated 30.3.1988 (Ann.A.1) containing instructions regarding adhoc appointments in Govt. and instructions were given that the adhoc appointments made should be <sup>& reviewed</sup> in the light of those instructions.

9. It is in these circumstances, that the Ministry of Information and Broadcasting advised the Department to terminate all adhoc appointments by 30.3.1989, if possible, by making regular appointments. It is stated that as the applicant held the post of Asstt.Editor Grade-II only on adhoc basis against a vacancy to be filled up by Direct recruitment and as action to fill up the vacant post by such method has also been initiated, the applicant cannot be continued as Assistant Editor. Therefore, it is stated that this OA is without any merit and should be dismissed.

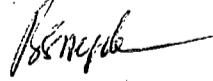
10. We have carefully considered this submission. We are satisfied that promotion can be made only for 7 posts. The applicant's name in the panel of eligible promotee is at serial No.9. Therefore, the Department is correct in stating that he has been given ad-hoc appointment against/direct recruit vacancy pending such direct recruitment. It has also stated that the process has been initiated. Respondents have, however, not stated whether the selection by direct recruitment has been completed.

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11. We are of the view that the applicant has no right to hold the group C post. He can be reverted to the lower group 'D' post when a direct recruit is selected for appointment.

12. In these circumstances, we are of the view that the interest of justice would be served if this O.A. is disposed of with a direction to the respondents that if the direct recruitment process for the post of Assistant Editor has been completed after this OA was filed and any person has been selected, it will be open to them to replace the applicant by appointing such regularly selected direct recruit as Assistant Editor and revert the applicant to his parent post of class-IV cadre. We order accordingly. The interim order is vacated. We also make it clear that the continuance of the applicant as Assistant Editor by virtue of the interim order issued earlier will not confer on him any right for regularisation on the post of Assistant Editor.

13. O.A. is disposed of as above.

  
(B.S. Hegde)

Member (J)

  
25/1/84  
(N.V. Krishnan)

Vice Chairman (A)