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Central Administrative Tribunal
Principal Bench: New Delhi

OA No.664/89

New Delhi this the 10 Day of August, 1994.

Sh. N.V. Krishnan, Vice-Chairman (A)
Sh. C.J. Roy, Member (J)

Mrs. Harvinder Kaur Sethi,
W/o Sh. Amarjeet Singh Sethi,
Town and Country Planning
Organisation, 'E' Block,
Vikas Bhavan, I.P. Estate,
New Delhi.

...Applicant

(By Advocate Sh. K.P. Dohare)

Versus

1. Union of India through
Secretary, Ministry of
Urban Development,
Nirman Bhawan, New Delhi.
2. Chairman, Town & Country Planning
Organisation, Nirman Bhawan,
New Delhi.
3. Chief Planner, Town & Country
Planning Organisation,
'E' Block, Vikas Bhavan,
I.P. Estate, New Delhi.
4. Secretary, Department of
Personnel and Administrative
Reforms, North Block,
New Delhi.

...Respondents

(By Additional Standing Counsel Sh. M.K. Gupta)

ORDER

Hon'ble Mr. N.V. Krishnan:-

The applicant was appointed on an ad hoc basis as Junior Stenographer on 1.5.1986 by the Annexure A-IX order. One of the terms of appointment was as follows:-

The appointment is purely on ad hoc basis and would stand terminated immediately on the nominee of the Staff Selection Commission joining her/his duty against this post."

While so, the applicant qualified in a test taken by the Staff Selection Commission for the post of L.D.C. which she qualified on 8.10.87. When she learnt that she would be reverted to the post of L.D.C., she filed this O.A. on 31.3.89. The prayer made in this O.A.

is for a direction to the respondents to absorb the applicant to the post of Junior Stenographer and to restrain them from reverting her as L.D.C.

2. The application has been resisted by the respondents. It is pointed out that the Department of Personnel and Training had circulated a scheme in 1986 for regularisation of ad hoc employees in the grade of LDCs, Telephone Operators, etc. and Stenographer Grade 'D' in the various Central Government offices by holding a special qualifying examination. The details of the scheme are notified in the OM dated 12.11.86 (Annexure-I). The Department took note of the scheme and invited applications from two such ad hoc Stenographers, including the applicant. Their applications were sent to the Staff Selection Commission. The applicant was also allowed to appear in the examination held on 8.3.87. After examinations were over, the Staff Selection Commission reported on 29.7.87 (Annexure-V) that the applicant was over-aged. However, the Department took up the matter again with the Staff Selection Commission to contend that, when the applicant was appointed, she was not over-aged and hence, the result on merits should be declared (Annexure-VI). The result was communicated on 12.11.87 (Annexure-VIII). The Staff Selection Commission indicated that the applicant qualified in the examination for regularisation in the cadre of LDC only and not as Stenographer.

3. Accordingly, the Department offered the applicant the temporary post of LDC on 10.5.88 (Annexure IX) on the basis of the recommendations of the Staff Selection Commission. The applicant also joined the post of LDC on 11.5.88 (Annexure-X). She, however, requested that

she be allowed to continue as Junior Stenographer on an ad hoc basis. The order of appointment as LDC was issued on 19.5.88 (Annexure XI). It was also indicated that after such appointment as LDC, she would continue as a Junior Stenographer purely on an ad hoc basis until further orders and that her appointment as Junior Stenographer could be terminated without notice. Subsequently, she was reverted to her parent post of LDC by an order dated 31.3.89.

4. The respondents also contend that the regularisation of the 15 contract employees referred to by the applicant has no relevance, for, those employees were absorbed on the orders of the Department of Personnel and Training as a special case.

5. At a late stage, the applicant filed MA-1058/94 for introduction of additional documents as well as to challenge the order of reversion dated 31.3.89. After hearing the parties, the M.A. was allowed.

6. The order of reversion is now exhibited as Annexure A-XVI. That order reverts two Junior Stenographers, including the applicant, to the post of LDC and two LDCs to the post of peon. The contention in this M.A. is that the applicant had rendered service of $4\frac{1}{2}$ years as Junior Stenographer from 19.5.85 when she has been reverted. As the applicant was appointed against a regular vacancy through the Employment Exchange, her appointment should be treated as regular from 19.5.85 itself. It is contended that her case is covered by the recruitment rules of 1986 as amended in 1987 (Annexure A-XVII). The applicant also states that she should not have been discriminated as compared to the 15 persons who were regularised though they were working

only on a contract basis. The applicant relies on the judgement of the Supreme Court in State of Haryana Vs. Piara Singh - AIR 1992 SC 2130 and the decisions of the Tribunal in OA No.776/89 and OA No.613/89, which have been exhibited as Annexures XIX and XX.

7. We have heard the learned counsel for the parties. The learned counsel for the applicant reiterated the averments made in the O.A. and the M.A. He contended that mere length of ad hoc service entitles the applicant to be regularised. He also pointed out that similar matters have been dealt with in the Annexures A-XIX and XX judgements and reliefs granted to the applicants therein.

9. The learned counsel for the respondents pointed out that on the facts mentioned above the case has no merit..

10. We have carefully considered the rival contentions.

11. It is quite clear that the applicant was put through a process of selection by holding of an examination by the Staff Selection Commission. She appeared in that examination without any protest. She ^{regularly} did not claim then that she had already been appointed as a Junior Stenographer from 19.5.85 when she was first appointed. Similarly, after the results of the examination were declared, she was offered an appointment of LDC stating that this was on the basis of the recommendations of the Staff Selection Commission. She accepted that post of LDC, again without any protest. She was allowed to continue only as a Junior Stenographer

by an order (Annexure XI) which made it clear that it was an ad hoc appointment until further orders which could be terminated at any time without notice and that this ad hoc appointment confers no right on her. That ad hoc appointment, therefore, does not confer any right on her to either continue on that post or to be regularised on that post.

12. Therefore, we do not find that her reversion by the impugned Annexure A-XVI order can be challenged on any valid ground.

13. The contention of the learned counsel is that the applicant has been reverted even before any regular person selected by the Staff Selection Commission has joined this post, because this was one of the conditions ^{as to} _{when} her appointment could be terminated as mentioned in the first order of ad hoc appointment vide the Annexure A-IX dated 1.5.86. We are unable to accept this argument. This order has now been replaced by the Annexure A-XI order issued by the Department when the applicant ^{was} appointed regularly as an LDC. That order continued the ad hoc appointment of Junior Stenographer on different terms.

14. In so far as discrimination between the applicant and other 15 contract employees is concerned, we are of the view that the applicant was not a contract employee. She was an ad hoc appointee. Secondly, she has also been regularised, but only as an LDC for which alone she qualified. Thirdly, if the 15 contract employees had been regularised contravening rules, the only persons who can raise a grievance out of it are those who have

been affected by that irregular decision. The applicant has no such right. Further, no employee can claim a vested right to be given a benefit which has been wrongly given to others.

15. In so far as decisions at Annexures-XIX and ~~XX~~ are concerned, we are of the view that they are distinguishable. In the first judgement (Annexure XIX) it was found that the applicant was appointed on contract basis and it was found that he was replaced correctly by persons selected by the S.S.C. However, his case was directed to be considered as in the case of the other 15 contract employees. We have held that the present applicant was only an ad hoc employee. We have disposed of his prayer to be treated on the same basis as the 15 contract employees in para 14 supra. In the second judgement (Annexure-XX), the relief given is based on the consideration that the ad hoc appointment continued for $16\frac{1}{2}$ years. In the present case the ad hoc appointment is for only about 4 years. Not only that, the applicant has already been regularised. Hence, these 2 judgements have no relevance.

16. The learned counsel for the respondents has produced for our perusal the judgement of the Tribunal in OA-701/89 filed by the two LDCs who were also reverted as peons by the same order dated 31.3.89, which has been impugned in this O.A. That application has been dismissed on the ground that regularly recruited persons became available. In the view that we have already taken we do not find it necessary to consider this judgement.

17. The applicant cannot get any support from Piara Singh (Supra). On the contrary, as laid down by the Supreme Court therein, she was considered for regularisation and has been regularised as a LDC for which post alone she was found fit and selected.

18. For the foregoing reasons, we find that there is no merit in this O.A. and it is accordingly dismissed. No costs.

12/10/87
(C.J. ROY)

10/10/87
(N.V. KRISHNAN)
VICE CHAIRMAN(A)

'Sanju'