

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 776/89.

New Delhi, this the 15th day of March,
1994.

SHRI J.P.SHARMA, MEMBER(J).
SHRI B.K.SINGH, MEMBER(A).

Shri Ashok Kumar Banduni,
son of Sh. K.L.Banduni,
Bhagwati Niwas,
F-174(C), Laxmi Nagar, Delhi-110092,
lastly employed as Investigator, I.T.C.P.O.,
Ministry of Urban Development,
'E' Block, Delhi Vikas Bhavan,
Indraprastha Estate, New Delhi.Applicant
By advocate : None.

Versus

1. Union of India, through the Secretary,
Ministry of Urban Development, Nirman
Bhawan, New Delhi.
2. Chief Planner,
Town & Country Planning Organisation,
Government of India,
Ministry of Urban Development,
'E' Block, Delhi Vikas Bhavan,
Indraprastha Estate, New Delhi.Respondents

By advocate : Shri M.L.Verma.

O R D E R

SHRI J.P.SHARMA :

The grievance of the applicant is that on 10.11.82 he received an offer of appointment from the Department of Town & Country Planning Organisation for the post of Investigator and he was appointed on ex-cadre post w.e.f. 12.11.82. He continued on that post till 30.11.84. He was again offered an appointment on the contract basis as Investigator in the Town and Country Planning Organisation at a

consolidated pay of Rs.1300/- per month initially for 3 months but that continued till 28.2.89 when the impugned order terminating his services on contract basis was passed. The applicant challenged this order after making a representation to the respondents in the present application filed on 12.4.89 with the request that the aforesaid order dated 28.2.89 be set aside and a direction be issued to the respondents to reinstate the applicant to the post of Investigator and regularise his services in the Department of Town and Country Planning Organisation or alternatively, absorb the applicant on permanent basis in the subordinate department of the Ministry of Urban Development. He has also prayed that he be given the same salary and allowances as are being paid to the regular employees.

2. The respondents contested the application by filing a reply stating that the services of the applicant were not required after 28.2.89 in the Organisation and, therefore, on the expiry of last term of his contractual appointment, the services were terminated. He again made an application on 1.3.89 for appointment on contract basis in the Project Division of this Organisation but his request was not acceded to by the Order dated 13.3.89. Regarding the absorption of the applicant, it is stated that there was no vacancy for the post of Investigator and the vacancies which arose were at roster point of reservation, one reserved for S.C. and other for S.T. candidates. Thus, the order

dated 28.2.89 is in accordance with the terms and conditions of the contractual appointent and the applicant has no case.

3. The applicant has also filed the rejoinder reiterating the same facts as he has stated in the Original Application.

4. None appeared on behalf of the applicant and since this is an old matter and has been on Board since last more than a month, we propose to decide the matter on merits. Shri M.L.Verma appeared on behalf of the respondents and assisted us in going through the pleadings and also made available the departmental file for perusal. In fact, on merits, the applicant has no case because he was specifically informed that his appointment is purely contractual on fixed remuneration by the memo dated 29.11.1984. Para 1 of the aforesaid appointment letter goes to show that there is a condition which has been accepted by the applicant that the services will stand terminated on the expiry of the specified period unless the period of employment is extended further. It is also specifically mentioned in the appointment letter that the aforesaid appointment will not give any right to the applicant for continuance in any regular post or for absorption in the Organisation. The services rendered by the applicant shall not count for purpose of seniority, pension or gratuity on a regular post. In view of this

fact, the applicant cannot make out a case that he has put in more than 3 years of service and so he should be regularised or absorbed in the Organisation. The applicant during all this period was free to seek regular appointment after giving notice to the respondents.

5. However, the Department of Personnel and Administrative Reforms issued a memo dated 21.6.1984 wherein the cases of similarly situated employee who were engaged on contract basis and since they belong to 7 different categories and their number was only 15, so, if possible, they should be given suitable posts in the Ministry of Works and Housing on their being rendered surplus from the Town and Country Planning Organisation. They cannot be taken on the surplus staff of the Department of Personnel and Administrative Reforms nor they could be covered under the re-deployment scheme. The respondents, therefore, in pursuance of the aforesaid letter have absorbed 15 persons who were earlier employed on contractual basis in the Town and Country Planning Organisation but the applicant could not be absorbed. The respondents have stated that there was no post of Investigator on which the applicant could be appointed. However, from the perusal of the departmental file, it appears that there were two posts of Investigator and both of these posts were filled up on the basis of selection by Staff Selection Commission from S.C. and S.T. candidates. The applicant

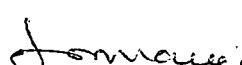
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therefore, was rightly not considered for those posts. There appears to be also notes to the effect that whenever any post is available, the applicant should be preferred from the freshers on account of his experience in the Organisation.

6. In view of the above facts and circumstances, the application is disposed of with the direction to the respondents to consider the case of the applicant on the same line as the case of 14 other employees who were earlier employed in Town and Country Planning Organisation and he should be informed whenever his services could be utilised on a post falling in the general category. No order as to costs.



(B.N.K. SINGH)
MEMBER (A)



(J.P. SHARMA)
MEMBER (J)

/Kalra/