

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 464/88
T.A. No.

199

DATE OF DECISION 22-7-1993

<u>Shri F.K.Roy</u>	Petitioner
<u>Shri F.L.Sethi</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India</u>	Respondent
<u>Shri P.P.Khurana</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Shri B.S.Hegde, Member (J)

The Hon'ble Mr. Shri N.K.Verma, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✓
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

(Hon'ble Shri N.K.Verma, Member (A))

In this O.A. the applicant has prayed for the regularisation of his initial ad hoc appointment on 5-10-81 in the post of Chief Enforcement Officer (CEO) and give the seniority in confirmation from that date in view of his continuous and uninterrupted officiation as also grant of promotion to higher grade if it becomes admissible. The applicant's case is that he was appointed as the CEO on 5-10-81 on the basis of recommendations of a duly constituted Departmental Promotion Committee (DPC). The ad hoc appointment of the applicant continued till 1985 when a review DPC regularised his appointment from 1982.

2. The respondents have admitted that the ad hoc appointment of the applicant against the existing vacancy was made on the basis of a DPC held in April 1980 which drew panel of

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9 officers for filling up 3 vacancies meant for the deputation quota and 6 more vacancies which were anticipated due to new creations. Although the vacancies filled up were for deputationists the Department permitted the promotee officers to be adjusted against the vacancies with the stipulation that the imbalance that would result in between the ratio of departmental officers and deputationists will be set right in the subsequent recruitment. The applicant was offered a post of CEO on 26-9-81 at Calcutta on ad hoc basis and as per his request dated 28-9-91 he was posted at H.Qrs. station in Delhi on 5-10-91 as on ad hoc basis against a leave vacancy with a stipulation of liability to be reverted without any reason. He was again given another ad hoc appointment dated 23-12-91 against another leave vacancy. This very vacancy was continued upto 12-2-82 in short spells. Thereafter the applicant was given an ad hoc appointment against a vacancy caused by transfer of another officer out of Delhi until further orders. We find another order dated 7-12-82 against which he was again appointed against leave vacancy caused by yet another officer. The number of annexures presented by the respondents go to show that the applicant was adjusted against number of posts in the H.Qrs. office in the leave vacancies or vacancies caused due to retirement or transfer of officers of the Directorate till 1983. This was followed by a regular appointment in 1985 which was subsequently reviewed by a review DPC for previous ^{four}~~three~~ years and he was given a notional seniority of 1982.

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3. We have heard both the parties. The learned counsel

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for the applicant made a strenuous effort to substantiate that the applicant had a clear vacancy against which he was working on ad hoc basis since 5-10-81 and he should be given regular promotion from that very date in the light of the several decisions of the Allahabad High Court, Delhi High Court and the Supreme Court. Even this Tribunal has accepted that ad hoc appointment followed by regular appointment would relate back to the initial ad hoc appointment.

4. However, the learned counsel for the respondent was able to prove that the DPC held in 1980 was not relevant to the appointment of the official upto October, 1981 as by that time it had lost its validity of a normal DPC. It had to be extended by another six months under the orders of competent authority. The same was not done and hence no reliance can be placed on the recommendations of the DPC for a regular promotion of the applicant. Further the vacancies against which he was given ad hoc promotion arose out of leave vacancies and vacancies caused due to retirement/transfer which had to be filled up temporarily in the interest of service. This was a kind of musical chair only and ^{the applicant} was made to shift from one Branch to another in the H.Qrs. and it cannot be said that the applicant had been officiating on ad hoc basis against one clear ^{regular} vacancy as was the pronouncements in the several cases cited by the learned counsel for the applicant.

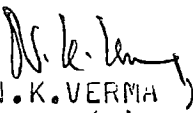
N.K. Singh

5. After giving careful consideration to the arguments made by learned counsel of both sides, we have no doubt in our mind that the appointment of the applicant to the post of CDO on 5-10-81 followed by several officiating and ad hoc

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arrangements was purely ad hoc and of short term nature which would not entitle him to regularisation from the date of initial appointment. The Department on its own had carried out a review DPC and given the applicant notional seniority from the date there was a clear vacancy against which DPC was held in 1985. In the circumstances, the application fails and we order accordingly.

There will be no order as to costs.


(N.K. VERMA)
Member (A)..


(B.S. HEGDE) 22/7/93
Member (J)