

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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O.A. No. 1009/88

New delhi, dated the 18th April, 1994

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

Hon'ble Sh.B.S. Hegde, Member (Judicial)

Shri J.N.Nainiwal
S/o Sh. Budh Ram
R/O V.& P.O. Kapasda
Gurgaon Road, Delhi-37

.... Applicant

(By Advocate Sh.K.Venkataram)

V/s

1. Lt. Governor,
Union Territory of Delhi,
Raj Niwas, Delhi-54
2. Commissioner of Excise,
Delhi Admn. Delhi, No.4
Battery Lance, Delhi-54

.... Respondents

(None for the Respondents)

ORDER (ORAL)

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

Heard. This application is listed at
Sl.No.8 in today's cause list as Regular matters.
Though called twice, none appeared on behalf of the
respondents. We notice that on an earlier occasion also,
when MA 83/94 of the applicant was filed for
restoration of this case and a notice was served
on to the respondent, none appeared for the applicant
on 18.2.1994 and the OA was restored to file.

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2. In the circumstances, we have heard the learned counsel for the applicant and we proceed to pass final orders.

3. This OA was filed in May, 1988 at the time when the Circular dated 21.1.88 (page-17) was issued calling for application from Group 'D' employees of Delhi Administration for appointment on deputation as Salesman, an ex-cadre post under the Country Liquor Scheme of the Excise Department of the Delhi Administration.

4. The applicant had been engaged as a Daily Wage Salesman w.e.f. 24.1.80 vide order Annexure-E at page-23 to discharge the work of Salesman. He was subsequently appointed as Salesman on ad-hoc basis in the pay scale of Rs 260-400 vide order dated 21.7.1984 (Annexure-F). Recruitment Rules were issued vide Notification dated 19.10.84 (Page-13) which provides that the post of Salesman will be filled up by transfer on deputation basis of Group 'D' employee, failing which, by direct recruitment. It is in pursuance of these rules that the Circular dated 21.1.88 was issued. Being aggrieved by this circular, the applicant has prayed in this O.A. for:-

- (i) a declaration that he is entitled to hold and continue in the post of Salesman notwithstanding the Recruitment Rules.
- (ii) a direction to the respondents not to fill up the post of Salesman held by the applicant by appointment on deputation from outside, and
- (iii) a further direction to the respondents to regularise the services of the applicant w.e.f. the date of his initial appointment as Salesman.

5. The respondents have filed their reply and contested the claim by the applicant. It is stated that as the Country

Liquor Scheme was a temporary one, the Recruitment Rules provided for manning the posts of Managers/Cashiers/Store-keepers/Salesman etc. only on deputation basis for a fixed tenure so that, if the Scheme was wound up, the incumbents could revert to their parent department. It is in these circumstances that, initially the applicant was employed on a daily wage basis and subsequently he was given an adhoc appointment in 1984 making it clear that this will not confer any right on him for permanent absorption etc.

6. The matter was reviewed in 1987 and it was felt that the persons like the applicant who worked on adhoc basis as Salesmen should be considered for appointment on regular basis by relaxation of the Recruitment Rules and that the provisions of the Recruitment Rules should be made applicable to vacancies arising in the future. These proposals were approved by the Res. 1 Lt. Governor Delhi and action for implementation of that decision was being taken. It is stated that 26 Salesman, including the applicant, would be considered for regularisation on the above basis.

7. The learned counsel submitted that, after filing this OA, the applicant has now been regularised. In the circumstances, he argued that the only question for adjudication is that the applicant should be regularised from the date of initial appointment or from the date he was appointed as adhoc Salesman in 1984.

8. We have carefully considered this matter. The respondents have sound and valid reasons for restricting the regular appointment under the Recruitment Rules to transfer on deputation because the scheme was essentially a temporary one. However, a review was made of the situation and it was felt that the existing incumbents who were outsiders and were appointed otherwise than under the Recruitment Rules, should be regularised by relaxation of the Recruitment Rules. That is how the applicant has been regularised as Salesman after the OA has been filed.

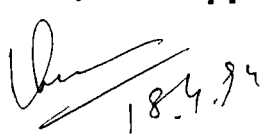
9. The learned counsel submitted that as he has now been regularised, the earlier ad-hoc service should also be taken into account for all purposes and his regularisation should take effect from the date of his initial appointment.

10. We have considered this matter. We note that applicant has been appointed on regular basis by relaxation of the Recruitment Rules. The relaxation can only have prospective effect, and, therefore, the prayer that the earlier service should also be treated for the purpose of regularisation, does not stand scrutiny.

11. In view of the above, the application is dismissed. No costs.

(B.S. Hegde)
Member (J)

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(N.V. Krishnan)
Vice Chairman (A)