

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 136 of 1986 198x
~~XXXXXX~~

DATE OF DECISION 30.4.1986

Shri C. K. Saxena Petitioner

Shri K. L. Bhandula Advocate for the Petitioner(s)

Versus

Ministry of Labour Respondent

Mrs Raj Kumari Chopra Advocate for the Respondent(s)

CORAM :

• The Hon'ble Mr. S. P. Mukerji, Member

The Hon'ble Mr. H. P. Bagchi, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No.

JUDGEMENT

The applicant has come up before us under Section 19 of the Administrative Tribunals Act praying that he may be absorbed as Junior Accountant on regular basis as the action to revert him to a lower post without assigning any reason is unjust. He has also prayed for payment of salary as Junior

Accountant after his reversion from 20.9.1983.

The brief facts of his case are summarised as follows.

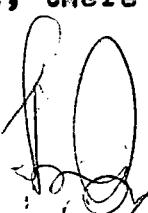
2. The applicant was confirmed as Hostel Warden in Mica Mines Labour Welfare Organisation, Rajasthan, Ministry of Labour with headquarters at Bhilwara. On the 19th October, 1974, he was appointed as Senior Clerk on deputation in the Office of the Iron Ore Mines Cess Commissioner, New Delhi and while on deputation he was selected and appointed as Junior Accountant in a newly created Audit Cell, Ministry of Labour with effect from the 19th January, 1979 on an ad hoc basis. Under the Recruitment Rules, the only method of appointment of this post was on transfer on deputation. On 6.12.1982, the applicant applied for his absorption on permanent transfer basis and the respondents after relaxing the Recruitment Rules issued order on 1st January, 1983 (Annexure IV to the application) absorbing the applicant on a regular basis as Junior Accountant in Audit Cell of the Welfare Division with effect from 28.12.1982. When, however, the Ministry of Labour approached the Department of Personnel & A.R. for relaxing the rules, the latter did not agree and the respondents were obliged to cancel the order of the 1st January, 1983 by a further order of the 24th June, 1983. The applicant continued to function as on deputation. His deputation had to be terminated

after four years as per the policy directive that the tenure of deputation should not be extended and the applicant was reverted to the lower post of Hostel Warden at Bhilwara with effect from 16.8.1983. The applicant, instead of reporting to the Welfare Commissioner at Bhilwara continued to be on extended leave on one pretext or the other since 1983 and has not still reported back to Bhilwara. The respondents concede that the Recruitment Rules were amended with effect from the 16th March, 1985 to provide for appointment being made as Junior Accountant by permanent transfer also in addition to by transfer on temporary deputation. However, the amended Recruitment Rules cannot be applied to the applicant as the amendment cannot be given retrospective effect.

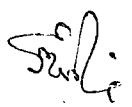
3. We have heard the arguments of the learned counsel for both the parties at length and gone through the documents closely. The appointment of the applicant to the post of Junior Accountant was made in January, 1979 when the Recruitment Rules provided only for transfer on deputation. It did not provide for permanent absorption. The applicant was fully aware of the temporary nature of his appointment as Junior Accountant on deputation as his appointment as Junior Accountant was extended from time

to time on a yearly or the like basis. The respondents had without consulting the Department of Personnel & A.R. under the rules had acceded to applicant's request for permanent absorption and issued orders accordingly on 1.1.1983. However, they had to revoke that order on 24.6.1983 as the relaxation of the Recruitment Rules was not agreed to by the Department of Personnel & A.R. on the ground that the Recruitment Rules provided for relaxation for category or class of employees and not for individuals. The respondents had to cancel the order of permanent absorption which had been issued erroneously being against the Rules. We feel that the respondents were fully within the bounds of propriety in cancelling the erroneous order. The applicant cannot claim any right to get permanently absorbed in the past either on the basis of the erroneous order which was cancelled subsequently or on the basis of the amended Recruitment Rules which have not been given retrospective effect.

4. Accordingly, we find no merit in the application and reject the same. In the circumstances of the case, there will be no order as to costs.


(H.P. BAGCHI)

30.4.86


(S.P. MUKERJI)