

10

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 1525/1987.      DATE OF DECISION: 23.4.90

Shri Pyare Lal                      ....      Applicant.  
Shri K.L. Bhatia                    ....      Advocate for the Applicant.  
   V/s.  
Union of India & Ors.               ....      Respondents.  
Mrs. R.K. Chopra                    ....      Advocate for the Respondents.

CORAM: Hon'ble Mr. P.C. Jain, Member (A).  
          Hon'ble Mr. J.P. Sharma, Member (J).

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*
4. To be circulated to all Benches of the Tribunal?      *no*

*J.P. Sharma*  
(J.P. SHARMA)  
Member (J)

*P.C. Jain*  
(P.C. JAIN)  
Member (A)

11

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Hon'ble Mr. J.P. Sharma, Member (J).

(Judgement of the Bench delivered by  
Hon'ble Mr. J.P. Sharma, Member (J).)

JUDGEMENT

The applicant, who was Clerk Grade II in the office of Registrar of Newspapers for India, Ministry of Information and Broadcasting, New Delhi, moved this application under Section 19 of the Administrative Tribunals Act, 1985 assailing the order No.A.12024/1/85-Admn., dated 30.4.1987 (Annexure A) passed by the Deputy Press Registrar (respondent No.3 herein), by which the services of the applicant were terminated with effect from 30.4.1987 (A.N.).

2. The applicant has prayed for a declaration that the termination of his services is violative of Articles 14, 15 and 311 of the Constitution of India and that he be reinstated in the service and paid the arrears of pay and allowances due to him as if he were not terminated from the services of the respondents.

3. The facts of the case, in brief, are that the applicant was appointed as Clerk Grade II with effect from "28.12.1984 on purely provisional and on adhoc basis till 2.6.1985 or till the date of reversion of regular incumbent whichever is earliest"(Annexure B). However, his services were terminated on 30.4.1987 without giving him any notice or salary in lieu of notice period.

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4. The case of the applicant is that he belongs to a Schedule Caste and has served the respondents for a period of more than 240 days, although initially he was appointed only upto 2.6.1985. His main plea is that during this period of employment, he received a number of offers of appointment from other Government establishments, but he deliberately ignored them as he never expected that the respondents would terminate his services. The respondents were maintaining his G.P.F. Account and they also issued a C.G.H.S. card on 14.1.1986 and thus gave him the facilities as are available to regular and permanent employees. He was also reimbursed the bills of medicines which he purchased when he was admitted to T.B. Hospital, Mehrauli, New Delhi for a period of over three months w.e.f. 15.1.1986. According to him, he had become a T.B. patient as he was forced to do overtime beyond his physical stamina and the retrenchment of his services is "ineffective, inoperative, invalid, illegal, unjustified and wrong". He also states that while in service of the respondents, he has become overage and crossed the age for any other fresh Government service.

5. The case of the respondents is that the applicant accepted the appointment with a clear understanding that his services were liable to be terminated at any time without any notice and without any reason being assigned thereto. He accepted the offer of appointment under his own signature and as such, he has no legal right to ask for a job; and the respondents have not violated any provision of the Constitution of India. He was appointed against a vacancy of a post, the regular incumbent of which had proceeded on deputation, and his appointment was on purely provisional and ad-hoc basis. The respondents have denied that the applicant was forced to do overtime and that he was duly paid for the overtime duty performed by him. On the other hand, the respondents have stated that

13

they had been very sympathetic and considerate to him and "when the applicant was not attending office for nearly more than six months i.e. 2.12.1985 to 7.7.1986, since he was admitted in the hospital, the office did not dispense with his service. On the contrary, the respondent helped him financially by raising contributions." According to the respondents, since there was no vacancy and the applicant was working only as an ad-hoc purely temporary employee, in view of the Government instructions contained in the Department of Personnel and Training in their O.M. No.6/60/84-CS. II dated 22.5.1985 and 30.9.1986 (Annexures R-I and R-II) and the instructions received from the office of the Chief Controller of Accounts vide their letter No.C-11301/1/86-87-P&A, dated 6.3.1987 (Annexure R-III) his services were terminated on 30.4.1987. The respondents have also averred that the applicant was allowed to appear in any interview or test as and when he desired and the last test he was allowed to appear was in the office of S.E., All India Radio, for the post of carpenter on 12.10.86 for which he was not found fit for selection. The letter dated 7.10.1985 filed by the applicant as Annexure 'F' was only a call letter from Agricultural Produce Market Committee whereby he was required to appear on 13.10.85 for a Type test for the post of LDC and he was duly allowed for the same. The respondents never prevented or created any hurdle in his way to apply for any other job whatsoever. He made contributions to GPF on his own volition and at no stage he was asked by the Government to make contribution towards GPF. The C.G.H.S. card was issued to him purely on humanitarian grounds when he was desperately in need of the same, and the reimbursement of cost of medicines on the basis of certificates produced by him from medical authorities was also done purely on humanitarian grounds.

6. We have gone through the records of the case and have also heard the learned counsel for the parties.

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7. It is not in dispute that the applicant has worked for more than 240 days and that he belongs to a Scheduled Caste. However, during the course of arguments, the learned counsel for the respondents showed the order dated 14.12.1984 whereby the offer of appointment was given to the applicant. It specifically mentioned that the appointment was purely on ad-hoc basis and the applicant was required to give his consent to the fact that his services could be dispensed with at any time without notice and without assigning any reason, as it was only a stop-gap arrangement. On this offer of appointment, he himself gave his consent on 28.12.1984 and had written a letter addressed to the Department. This fact is not disputed by the applicant. In view of this whether the applicant has acquired any legal right to claim a job in the services of the respondents, has to be ascertained from the facts and circumstances of the case.

8. It is an admitted fact that ad-hoc appointment is only a stop-gap arrangement till the regular incumbent, according to rules, is appointed or the person on deputation etc., joins on repatriation. Admittedly the applicant was appointed against a vacancy caused by the incumbent of the post proceeding on deputation and as such he could not be appointed on a regular basis against that post. On receipt of specific instructions from the Department of Personnel and Training contained in Office Memorandum No. 6/60/84-CS. II, dated 22nd May, 1985 (Annexure R-I) and dated 30th September, 1986 (Annexure R-II) as also the letter dated 6th March, 1987 from the Office of the Chief Controller of Accounts/<sup>the respondents</sup> could not allow the applicant to continue. Annexure R-1 gave clear direction for termination of the ad-hoc appointments and those who had been working, should be allowed to take the special examination, and if they failed, their services be terminated. The applicant had not opted for any such examination. In order to strictly enforce the instructions issued by the Department of Personnel and Training, Ministry of Finance directed that the pay and salary of ad-hoc employees in the grade of

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LDC and Stenographers be not drawn and where it is being drawn, it should be discontinued to be drawn. It is, therefore, evident that the services of the applicant had been terminated not because of any punishment, but because he was working purely on ad-hoc basis. No notice was required to be given to him in pursuance of the terms of appointment letter.

9. The learned counsel for the applicant has placed reliance on the case of VEENA SHARMA Vs. GENERAL MANAGER AND OTHERS (1988 (2) ATLT p. 37) wherein in para 9 there is an observation regarding regularisation of ad-hoc appointees but in the present case the applicant was made well aware in advance by the offer of appointment given to him on 14.12.1984 that he was being given an appointment in place of an incumbent going on deputation and his services were likely to be terminated any time without notice. So the facts of the present case are different. The learned counsel has also relied on the case of H.S. GROVER AND ANOTHER Vs. UNION OF INDIA (A.T.R. 1986 (II) CAT p. 365). This case is not relevant at all since in that case, the question of seniority was involved. Moreover, in the matter of seniority, counting of continuous officiation has been decided in the Full Bench case in C.V.K. NAIDU Vs. UNION OF INDIA (1989 (II) ATR CAT p. 465).

10. The learned counsel for the applicant also relied on the case of D.R. NIM Vs. UNION OF INDIA (AIR 1967 SC 1301) In that case the matter was totally different regarding the validity of rules and instructions and the Government of India order dated 25.8.1955 was declared invalid. Reliance has also been placed by the learned counsel on Narendra Chadha and Others Vs. Union of India and Others (1986 ATR SC 49). That case was also regarding seniority and the posts in the Indian Economic Service and Indian Statistical Service were kept ad-hoc for more than 15 to 20 years in the Grade IV of those Services. So that case too is not on the point. Similarly, the decision of the Punjab and Haryana High Court

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in Ms. Usha Kapur Vs. State of Punjab reported in 1989(1) SLJ P&H page 154 is not relevant and the facts of that case regarding appointment of Mrs. Usha Kapur were totally in different circumstances. The case of Dr. (Mrs.) Sangeeta Narang and Others Vs. Delhi Administration and Others (1988(1) ATR CAT 556), relied upon by the learned counsel for the applicant, is not relevant to the present case. In that particular case, the appointment was given for three months for short term contract renewable after a break of one day for another 90 days and the Principal Bench observed that the policy of hire and fire is repugnant to the mandate of equality, enshrined in Articles 14 and 16 of the Constitution. The learned counsel for the applicant further placed reliance on the case of K. Srinivasan Vs. Senior Commercial Officer and Others (1986 ATR (I) CAT, Madras page 283). In that case also the facts were totally different as the applicant was promoted on ad-hoc basis for three months and continued for six years, and was still given further promotion to next higher grade, and was subsequently reverted two steps below, and the order was set aside and the applicant was ordered to be accommodated without affecting the rights of other persons equally placed.

11. Thus, the appointment order itself, as well as the undertaking given by the applicant, which has been placed before the Bench from the departmental file, clearly made out that the applicant was appointed as Clerk Grade II with effect from 28.12.1984 provisionally and on ad-hoc basis till 2.6.1985 or till the date of reversion of regular incumbent, whichever is earliest (Annexure-B). The various directions issued by the Department of Personnel and Training (Annexures R-1 and R-2) were in aid to the applicant to appear in the examination, but he did not avail of the opportunity. The decision in Jetha Nand and Others decided by the Full Bench of the Tribunal on 5.5.1989 clearly answered the query regarding ad-hoc employees in para 56 of the Full Bench

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Judgement (1986-89) at page 375 wherein it has been held that if an ad-hoc employee has been appointed in a stop-gap arrangement, he can be reverted at any time. In the reported case, the applicant was officiating for nearly 10 years or more but since he did not pass select test, he was not regularised. Again in Manoj Kumar Sharma Vs. Union of India (1989 (II) ATR CAT 400), the applicant worked for 240 days and requested for regularisation of ad-hoc appointment, but no direction was issued and it was utterly left to the respondents.

12. It has been further pointed out that the various directions issued by the Department of Personnel and Training cannot be applied to the applicant, as these posts were not a part of Central Secretariat Clerical Grade scheme and there were no extant recruitment rules. However, the fact remains that these posts have since been merged in the C.S.C.S. in 1987 and the ad-hoc employees could not be allowed to continue. In view of this also, the applicant has no right, even though he may be a Scheduled Caste, for being regularised. The applicant himself, as given out by the respondents, was on medical leave for about six months and that he was given all possible help, financial and otherwise, and there was no occasion on the part of the Department to terminate his services except on account of the various instructions issued by the Department of Personnel & Training (Annexures R-1 and R-2).

13. Having given a careful consideration to all these aspects and considering the law on the points, the applicant has not made out any case on merits for being regularised. His application is devoid of merit and is, therefore, dismissed. Parties are left to bear their own costs.

*Jomane*  
(J.P. SHARMA) 23/4/90  
Member (J)

*P.C. JAIN*  
(P.C. JAIN) 23/4/90  
Member (A)