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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH,  
NEW DELHI.

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Registration O.A. No. 1628 of 1987

Shri Parvesh Kumar                      ...      ...      ...      Applicant.

Versus

Union of India,  
and others                                      ...      ...      ...      Respondents.

...

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. S.R. Adige, Member (A)

( By Hon. Mr. Justice U.C. Srivastava, V.C.)

given the benefit of

The applicant not having been regularised as a Lower Division Clerk vide order dated 13.3.1985 though three other officies namely Sri Girish Chander Shri Bakesh Babu and Smt. M. Vijayalakshmi Nair, were regularised on the recommendation made by the DPC. ~~@@@@@@@@@@@@~~ has prayed for quashing of the said order. He has further prayed that the order dated 13.11.1986 where in it has been mentioned that the applicant was holding the post of LDC on adhoc basis may also be quashed and the respondents may be directed to regularise the applicant as LDC in the Operational Assistant Cell of Carpet Weaving Training Scheme of the office of D.C. ( Handicrafts) where he has been working as LDC on transfer basis since 16.6.1980.

2. The applicant was appointed as Store Keeper-Cum-Accounts Clerk on 3.3.1978 in the pay scale of Rs. 260-400 under Carpet Training Scheme in the office of the Development Commissioner, earlier known as All India Handicrafts Board . He was transferred as LDC w.e.f. 16.6.1980 at his own request in the Operational Assistant

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Cell of the Carpet Scheme at Headquarters in New Delhi. In the order, the word 'ad hoc' was not used. The other three respondents whose names have already been mentioned above, were also transferred to Headquarters on their own request vide order dated 10.6.1980 and 14.12.1984 and all of them were regularised as Lower Division Clerk vide order dated 27.3.1986.

Admittedly, no recruitment rules were enforced when the applicant was transferred but the recruitment rules of the L.D.C. came into force only on 13.3.1985 that is some 5 years after the transfer of the applicant. According to the recruitment rules, 90% posts of LDC are to be filled in by Direct Recruitment and 10% by promotion and for promotion only group-D employees are eligible. The applicant's plea is that the Respondent Nos. 3, 4 & 5 who has thus been regularised after the rules came into force were not group-D employees and consequently, they could not have been considered for promotion and as a matter of fact, they too were store-keeper-cum-accounts clerk. After the transfer of the applicant, he was declared quasi permanent @ vide order dated 5.11.1983. The applicant's representation was @@@@ rejected on the ground that he had no claim for appointment as regular LDC on the basis of seniority, as he was transferred on ad hoc basis.

3. The applicant is an employee of the Carpet Weaving Centre, it may be that till then he was not a permanent or a quasi-permanent employee

Even though the applicant was not a permanent employee and he was holding a transferable post on transfer. As the applicant's status would be the same and rightly in the order, the word 'adhoc' was not used, subsequently, the use of word 'adhoc' at some other stage would not make him adhoc employee as the adhoc appointment is made in the certain circumstances and for the certain purposes. It was not a case of adhoc promotion, it was rather a case of transfer only and transfer does not change status of a person unless it is specifically done. The applicant worked for 5 years prior to the recruitment rules and after coming enforce of the recruitment rules, the cases of other persons similarly placed were considered for promotion and regularisation but the applicant's case was not considered. The applicant's case was similar to the case of similarly situated persons i.e. Rakesh Babu and Girish Chander who too were store kpper-cum-account clerks and on their request were transferred. The applicant was appointed and transferred earlier and they followed the suit. If they could have been regularised, no specific reason whatsoever, has been pointed out in the counter affidavit by the respondents why the applicant could not have been regularised. The non-regularisation of the applicant unlawful and discriminatory.

4. Accordingly, the respondents are directed to consider the case of the applicant also for regularisation similar to the case of Sri Girish Chander and Rakesh Babu within a period of three

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months from the date of receipt of the certified copy of this judgment to the respondents. If a decision be taken in this behalf, the applicant will be notionally regularised from the date, these two other persons have been regularised but actually from the date, the decision is taken. No order as to the Costs.

*Anjelige*  
Member(A)

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Vice-Chairman

Dated: 18.3.1993

(n.u.)