

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 535/1987

Date of decision: 17.08.1993

Shri D.C. Chaudhari

...Petitioner

Versus

Union of India & Others

...Respondents

For the Petitioner

...Shri Ashish Kalia, Counsel

For the Respondents

...None

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON, VICE CHAIRMAN
THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

JUDGMENT (ORAL)
(of the Bench delivered by Hon'ble Mr.
Justice S.K. Dhaon, Vice-Chairman)

The petitioner was appointed as a Research Officer by order dated 29.09.1976. The order made it clear that the appointment was on ad hoc basis and was for a period of six months or till the nominees of the Union Public Service Commission/Departmental Promotion Committee join, whichever is earlier.

2. On 22.10.1979 an Office Order was issued. The relevant portion of the order runs as follows:-

"On the recommendation of the Departmental Promotion Committee (Group B) of the Department of Agriculture, the following persons are appointed as Research Officer (Group B) in the scale of Rs.650-1200 in the following order of merit. The petitioner's name was shown at S.No.1 in the Scheduled Caste category".

The grievance is that while determining his seniority the services rendered by him (the petitioner) between 29.09.1976 to 22.10.1979, had not been taken into account.

3. The relief claimed in the O.A. can be met on two grounds. The first is that the petitioner is not really entitled to get the benefit of the services rendered by him between 29.09.1976

and 22.10.1979. The reason is to be found in the order of appointment dated 29.07.1976. It is implicit in the order that a regular appointment could be made on the recommendations of the UPSC or the Departmental Promotion Committee. On the face of it, the appointment of the petitioner was made de hors the rules. This position is clarified in the counter-affidavit filed on behalf of the respondents. In paragraph 6 (vii) of the said affidavit, it is recited that as the Departmental Promotion Committee proposals could not be finalised for making promotions in accordance with the then existing rules which were valid upto 30.09.1976 and it was essential to make appointment against the Plan Scheme posts to achieve the target, ad hoc appointments were resorted to so that Plan Scheme work did not suffer. It is also recited that beyond 30.09.1976 without following the statutory rules for the purpose of appointment to the post.

4. Reliance is placed by the learned counsel for the petitioner on the case of Direct Recruit Class II Engineering Officers Association Vs. State of Maharashtra, 1990(2) SCC 715. This decision does not advance the petitioner's case at all. It is clearly laid down that if an appointment is made on ^{an} officiating or de hors the rules, no benefit of continuous officiation can be given.

5. The second reason for not granting the relief is that the order passed in October, 1979, clearly conveyed the idea that seniority had been fixed on merit. This is an additional reason why this application should fail.

6. This application has no substance and is dismissed. No order as to costs.


(B.N. DHOUDIYAL)
MEMBER (A)
17.08.1993


(S.K. DHAON)
VICE CHAIRMAN
17.08.1993

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