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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

DATE OF DECISION: 10.3.1989

1. Regn. No. (355/HP of 1987), 2353 of 1988.

O.P.Sharma & Others .. Applicants

Versus

Union of India, through:
the Secretary, Department of Youth Affairs
and Sports, Ministry of Human Resources
Development, New Delhi.

.. Respondent

2. Regn. No. OA 878 of 1987.

V.K.Shukla and another .. Applicants

Versus

Union of India .. Respondent

CORAM: Hon'ble Mr. Justice J.D.Jain, Vice-Chairman.

Hon'ble Mr. Kaushal Kumar, Administrative Member.

Present: Mr. R.L.Sethi, Advocate for the Applicants.

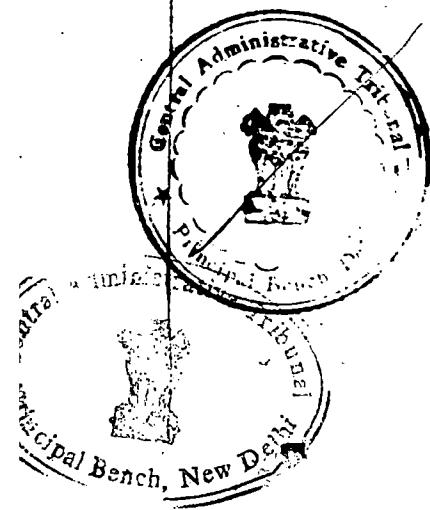
Mr. S.Meorlihbar and H.K.Gangwani, Advocates for the Respondents.

J U D G E M E N T: (Judgement of the Bench delivered by
Hon'ble Mr. Justice J.D.Jain,
Vice-Chairman).

...

Since common questions of law and facts
are involved in both the above mentioned Applications
under Section 19 of the Administrative Tribunals Act,
1985 (for short 'the Act'), we dispense of the same
by this common judgement.

The undisputed facts of these cases are that
S/Shri V.K.Shukla and G.P.Gupta, Applicants in OA No.878
of 1987 as well as O.P.Sharma, D.S.Chauhan and A.K.
Bhanot, Applicants in OA No. 355/HP of 1987 were appointed
as Youth Coordinators in various Nehru Yuva Kendras vide
Government of India, Ministry of Human Resource Development
(Department of Youth Affairs and Sports) Notification
dated 24.4.1986 with effect from the dates mentioned
therein in the months of March and April, 1986 and



they were posted at Nehru Yuva Kendras located at different places. Their appointments were made on the recommendation of the Union Public Service Commission (for short the UPSC) pursuant to the Ministry of Education and Culture (Department of Education), Nehru Yuva Kendras (Youth Coordinator) Recruitment Rules, 1980 (for short the Recruitment Rules), which came into force on the date of their publication in the official Gazette viz. 01.09.1980. The method of recruitment to the posts of Youth Coordinators as laid down in the Recruitment Rules was "By/transfer on deputation (including short term contract) failing which by direct recruitment." That was the precise reason why the serving Government employees under the State/Central Governments were considered for appointment to the said posts. Subsequently Recruitment Rules were amended by Recruitment (Amendment) Rules which came into force with effect from 25.10.1986 when the same were published in the official Gazette. As per the amendment made therein, the following note was inserted under column 10 of the Schedule to the Recruitment Rules:-

"The suitability of the holders of the post of Youth Coordinator of Nehru Yuva Kendra in the scale of Rs.700-1300, on the date of notification of these rules, will be initially assessed by the Union Public Service Commission and if found suitable, they shall be deemed to have been appointed to the post of Youth Coordinator on regular basis at the initial constitution."

The contention of the Applicants succinctly is that they were holding the posts of Youth Coordinators on the date the amended Recruitment Rules came into force and as such by the legal fiction embodied in the note, adverted to above, they would be deemed to have been appointed to the posts of Youth Coordinators on regular basis at the initial constitution. They point out that the appointments of the Applicants were made on deputation after their selection by the UPSC and as such after the coming into

force of the amended Recruitment Rules, they became entitled to the benefit thereof. However, the Respondent-Union of India passed a resolution dated 25.2.1987 vide which they decided to set up a Nehru Yuva Kendra Sangathan (for short the Sangathan), an autonomous body under the Societies Registration Act and entrust the entire work of the then existing Nehru Yuva Kendras to the Sangathan for managing, administering and running the existing Nehru Yuva Kendras as per Rules to be framed by the Sangathan with the approval of the Government of India. However, the Sangathan was to be wholly owned and financed by the Central Government as its instrumentality. Still later, vide orders dated 24.3.1987 and 13.4.1987, the deputation of the Applicants was extended only upto 30.6.1987 whereafter the Applicants were directed to revert to their respective parent Departments and join duty on the posts held by them earlier. In other words, the deputation of the Applicants came to an end on 30.6.1987 and they were repatriated to their respective parent Departments.

Feeling aggrieved by the aforesaid letters dated 24.3.1987 and 13.4.1987, the Applicants filed these Applications under Section 19 of the Act inter alia seeking the following relief:-

- (i) their services as Youth Coordinators be regularised as envisaged in the Amended Recruitment Rules dated 25.10.1986 from the date of their initial appointment as Youth Coordinators and they be declared as permanent Central Government employees; and
- (ii) the impugned orders dated 24.3.1987 and 13.4.1987 as being illegal and invalid.

It is inter alia contended that the Applicants cannot be forced to opt for the absorption as Youth Coordinators in the Sangathan without even knowing the



Rules and Regulations framed by it as also the terms and conditions of service on which they would be taken by the Sangathan.

In the Written Statement filed by the Respondents in both the cases, the Respondents admit that the Applicants had been assessed and recommended by the UPSC for appointment to the posts of Youth Coordinators on deputation basis but they deny that it was for permanent absorption in the cadre of Nehru Yuva Kendras. They explain that the UPSC had assessed the Applicants for appointment on deputation basis in accordance with the Recruitment Rules of 1980 and not for permanent absorption in terms of amended Recruitment Rules of 1986. Further, according to them, the amended Recruitment Rules of 1986 were never given effect to for the reason that the Central Government had taken a decision that an autonomous organisation called the Nehru Yuva Kendras Sangathan be established to take over, manage, administer and evaluate the Nehru Yuva Kendras. Hence they assert that the Applicants being on deputation with the Govt. of India can be reverted to their respective parent Departments any time. They deny any hostile discrimination between the Applicants and other Youth Coordinators similarly situated contending that all of them being on deputation, there was no question of any inter se seniority between them and therefore they were being repatriated to their respective parent Departments in phases depending on the taking over of various Nehru Yuva Kendras by the Sangathan from time to time.

We have discussed in detail the implications of the note under Column 10 of the Schedule to the

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of date
Recruitment Rules of 1980 in our judgement in Smt.

Suraksha Markande's case (OA No. 876 of 1987 as regards

F.L.Raval, Applicant No. 13 in the case S.M.Mehta
v/s Union of India etc. - OA No. 960 of 1987 who too had
been appointed as a Youth Coordinator with effect from

2.7.1986 after selection by the UPSC. The case of
the Applicants who too joined the Nehru Yuva Kendras
as Youth Coordinators after selection by the UPSC would
squarely fall within the ambit of the note adverted to
above because they too shall be deemed to be the holders
of the posts of Youth Coordinators on the relevant date
viz. 25.10.1986 on which date the Recruitment (Amendment)
Rules came into force. Thus they would be deemed to have
been appointed to the posts of Youth Coordinators on
regular basis at the initial constitution. Hence, as a
necessary corollary, they became the Central Govt.

employees by force of the deeming provision, referred
to above.

Despite this legal position, we noticed
in the aforesaid case that in view of the fact that
all the posts of Youth Coordinators as Central
Service (Group A Gazetted) having been abolished with
effect from 29.2.1988 on account of taking over of the
entire work of Nehru Yuva Kendras by the Sangathan, the
Applicants had no right as such to hold the said
posts. All the same, having regard to the peculiar
circumstances of the cases of Smt. Suraksha Markande,
R.R.Sharma, Attar Singh etc. we held that it would be
highly inequitable, unjust and improper on the part
of the Respondents to shut out the Youth Coordinators
who had rendered valuable service in Nehru Yuva Kendras
on so-called deputation for more than 5 years continuously.
One reason which weighed heavily with us was that the



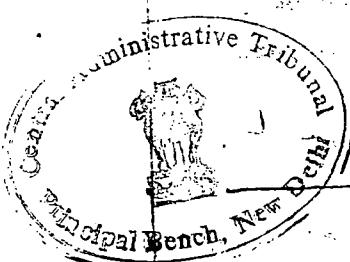
Youth Coordinators had virtually severed their links with their parent Departments and had acquired special expertise and valuable experience of new type in initiating, formulating programmes to involve the rural youth and providing more opportunities to the youth in different areas like participation in the field of programmes of self, social and national development. Hence, there was no justification whatsoever in leaving such Youth Coordinators in the lurch and pushing them back into their posts which they had left long ago. We also visualized that there might have been changes in their respective parent Departments over the years and therefore they would be highly prejudiced if they are repatriated to their parent Departments. However, no such equities weigh in favour of the Applicants who have rendered service as Youth Coordinators for a very short term. Indeed, they have not completed even their normal tenure of deputation. Hence, they can be easily repatriated to their parent Departments unless, of course, their lien on the posts held by them prior to their induction on deputation in the Nehru Yuva Kendras has been terminated. We, therefore, make it clear that in case the lien of the Applicants on the posts held by them in their respective parent Departments stands terminated, it shall be the responsibility of the Respondent Union of India to ^{them} ~~get~~ absorb, as Youth Coordinators in the Sangathan on the existing terms and conditions of service including the emoluments which they were drawing as on 30.6.1987 or on a subsequent date when they are actually relieved of their present post.

Both these Applications are disposed of accordingly with the direction to the Respondents to ensure

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absorption of the Applicants as Youth Coordinators on the existing terms and conditions including emoluments as drawn by them on 30.6.1987 or any other subsequent date on which they are relieved provided of course that their lien on the posts held by them in their respective parent Departments has already been terminated. In the circumstances, we make no order as to costs.



(Kaushal Kumar)
Administrative Member

(J.D.Jain)
Vice-Chairman