

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI.

O.A. NO. 1035/87.

DATE OF DECISION: 7.12.1992

U.K. Wadhwa & Ors.

..Petitioners.

Versus

Union of India & Ors.

..Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.  
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioners.

Ms Mridula Ray, Counsel.

For the Respondents.

Shri P.P. Khurana, Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

The three petitioners were appointed as Junior Progress Officers on ad hoc temporary basis in the DGS&D department on 15.3.1984. The recruitment rules regulating the filling up of the posts of Junior Progress Officers have been promulgated on 31.8.1982. The eligible candidates had to take an examination and it is that examination which would determine their rights to be considered for appointment. The examination in accordance with the rules was held on 15.11.1985 and the merit list of candidates was prepared as is clear from Annexure V produced by the petitioners. The petitioners are in fact at Serial No. 34, 12 and 14 respectively. As there were only eight vacancies as stated in the reply, none of the petitioners were appointed on a regular basis. It is in this background that the petitioners approached this Tribunal for appropriate relief as they were liable for termination.


2. The petitioners rely upon the executive order Annexure VII dated the 29th April, 1977 in support of their case that they

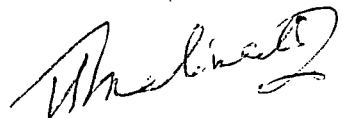
having remained as ad hoc employees for more than six months, they had a right to continue in service on a regular basis. It is not possible to grant any relief contrary to the statutory provisions. Besides, if the executive order is in conflict with the statutory rules which have come into force on 31.8.1982 it is the statutory rules that prevail. Hence, it is not permissible to dislodge the persons appointed on a regular basis in accordance with the statutory rules on the strength of the executive order. The petitioners offered themselves for regular recruitment in accordance with the rules. Hence they are now estopped from contending that they are entitled to be appointed de-horse the rules. They cannot sit on the fence. The petitioners having regard to the facts and circumstances of the case must take the consequence of their action and their rights have to be regulated in accordance with the merit list prepared for recruitment to the post in question. We have already pointed out that there were eight vacancies at the relevant point of time. None of the persons who had lower ranking than the petitioners were appointed. Hence, no relief can be granted.

3. It is further pointed out by the learned counsel for the petitioners that she has instructions to say that so far as petitioners 2 and 3 are concerned, they have secured appointment in accordance with the rankings but not the first

petitioner. She has further submitted that it may be that the first petitioner may also have secured appointment by now but she is not certain. It is unnecessary to notice these facts.

4. For the reasons stated above, this petition fails and is accordingly dismissed. No costs.

  
(I.K. RASGOTRA)  
MEMBER (A)

  
(V.S. MALIMATH)  
CHAIRMAN