

10

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**NEW DELHI**

O.A. No. 1255/90  
T.A. No.

199

DATE OF DECISION 16.11.1990.Miss Kanchan Bala PetitionerShri A.K. Sikri Advocate for the Petitioner(s)

Versus

Union of India & Another RespondentMrs. Raj Kumari Chopra Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

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. Whether it needs to be circulated to other Benches of the Tribunal? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,  
Vice Chairman(J))

The grievance of the applicant, who has worked as Lower Division Clerk in the office of the respondents relates to the termination of her services. She has prayed for directing the respondents to regularise her services with all the benefits of seniority and fitment etc., and to give directions to them not to terminate her services till her regularisation by preparing a scheme or otherwise.

2. The application was filed in the Tribunal on 25.6.1990. On the same day, an ex-parte interim order was passed directing the respondents not to terminate her services from the post she was occupying. The interim orders were thereafter continued till
- [Signature]*

the case was finally heard at the admission stage and orders reserved thereon on 24.10.1990.

3. The facts of the case in brief are as follows. The applicant was appointed as Lower Division Clerk in the National Museum of Natural History (Department of Environment) with effect from 29.6.1989. Her name had been sponsored by the Employment Exchange for the said post along with about 30 others. After holding a typing test and an interview, the applicant was selected for the post. In the offer of appointment as well as in the order of appointment, it has been stipulated that the appointment will be on purely temporary and ad hoc basis initially for a period of three months. The appointment was <sup>also</sup> liable to be terminated at any time by one months notice given by either side.

4. The period of appointment of the applicant was extended for a further period of three months with effect from 29.9.1989 and again for a further period of three months with effect from 29.12.1989 or till the post against which her appointment was made was filled up, whichever was earlier. Her ad hoc appointment was last extended for a period of three months with effect from 29.3.1990 or till the post against which her appointment was made was filled up, whichever was earlier.

12  
5. Thus, the applicant had worked for one year continuously without any break in service. She was verbally told by the respondents that the period of appointment would not be further extended and that she would be relieved on 28.6.1990. Thereafter, she filed the application and is continuing in the post on the strength of the stay order passed by the Tribunal.

6. The applicant has stated that no regular appointment has been made to fill up the vacancy against which she was working, that she has become overaged by now, <sup>and</sup> that after her selection for appointment as Lower Division Clerk ~~xxxxxx~~ her name was deleted from the Employment Exchange. She has contended that having worked for more than 240 days, she is entitled to the protection of Section 25 F of the Industrial Disputes Act, 1947. She has also relied upon the decisions of the Supreme Court wherein it has been held that a person who has continuous and long service on ad hoc basis is to be regularised without any further selection process. The decisions relied upon by her are Bhagwati Prasad Vs. Delhi State Mineral Corporation, JT 1989(4) SC 541; Bhartiya Dak Tar Mazdoor Manch Vs. Union of India, AIR 1987 SC 2342, U.P. Income Tax Department Contingent Paid Staff Welfare Association Vs. Union of India, AIR 1989 SC 517 and Delhi Municipal Karamchahi Ekta Union Vs. P.L.

Singh, AIR 1988 SC 519.

7. The respondents have admitted in their counter-affidavit that the name of the applicant was sponsored by the Employment Exchange along with 22 other names. The Selection Committee had included her name in the select list at S.No.3 in the order of merit. According to them, as on 8.2.1987, there was only one vacancy of Lower Division Clerk but later on one more vacancy occurred. The first two persons from the panel were appointed against these vacancies (Manoj Kumar Aggarwal and Miss Kamani Anand). In the meanwhile, a proposal was moved for appointing on ad hoc basis a Lower Division Clerk against the vacant post of UDC. The said UDC's post was to be filled up on deputation basis according to the recruitment rules. As this process was bound to take some time, the respondents decided to make ad hoc appointment of an LDC against the said post of UDC for three months in the exigencies of work. That is how the applicant whose name figured at S.No.3 on the panel came to be appointed on ad hoc basis initially for a period of three months. Her ad hoc appointment was continued thereafter as the respondents were not able to complete the formalities for appointment of a UDC on deputation. By the time the applicant's extension of ad hoc service as LDC came to an end on 28.12.1989, the respondents had already appointed a UDC on deputation basis against

*Or*

14

the vacant post of UDC against which the applicant was appointed for three months on ad hoc basis. The respondents have further stated that as the three months period of her appointment was not over, the applicant was adjusted against the vacant post of Assistant Librarian reserved for Scheduled Caste. The applicant was given further extension against the post of Assistant Librarian upto 28.6.1990.

8. The respondents have referred to the instructions issued by the Government of India that ad hoc appointment cannot be continued beyond one year. Therefore, although the post of Assistant Librarian was still vacant, the applicant was informed that she had already completed one year period and according to the Government of India's instructions, no further extension could be given beyond one year. The respondents cannot give her further extension beyond 28.6.1990.

9. The respondents have also stated that they had been processing the filling up of the post of Assistant Librarian against which the applicant was working as LDC. This process was completed by them on 1.9.1990 and they have made a regular appointment of Assistant Librarian by selection on 10.9.1990. With effect from the same date, the services of the applicant were terminated.

10. After hearing of the case was concluded, the learned counsel of the respondents have placed before us the relevant file relating to the ad hoc appointment of the applicant. It is noticed from the said file that

*[Handwritten signature]*

there were two posts of LDCs which were filled up by appointing Shri Manoj Kumar Aggarwal and Miss Kamini Anand on 15.3.1989 and 25.3.1989 respectively. The applicant was appointed as LDC on ad hoc basis against the vacancy of a UDC with effect from 29.6.1989, the ad hoc appointments of Shri Manoj Kumar Aggarwal and Miss Kamini Anand as LDCs were extended upto 14.9.1989 and 24.7.1989 respectively. The services of Miss Kamini Anand were terminated with effect from 24.12.1989. However, the respondents continued the ad hoc appointment of the applicant against the post of Assistant Librarian.

11. It is, however, noticed that Shri Manoj Kumar Aggarwal who was appointed as LDC on ad hoc basis was relieved on 9.4.1990 to enable him to take up the job of Head Constable(Ministerial) in the Delhi Police. No one else has been appointed so far in the vacancy thus created. The respondents have decided not to extend the ad hoc appointment of the applicant primarily on the ground that her continued appointment beyond one year would be violative of the administrative instructions issued by the Government of India. We are not impressed by this contention. It is not the case of the respondents that the post of LDC against which her appointment was made has been filled up in accordance with the Recruitment Rules. According to the Recruitment Rules, the post of LDC is to be filled up by a person who has been sponsored by the Staff Selection Commission. Till a nominee of the Staff Selection Commission joins the post

on

115

of LDC, we are of the opinion that the applicant should be allowed to continue as LDC.

12. The post of LDC has to be filled up on a regular basis by the nominee of the Staff Selection Commission in accordance with the relevant Recruitment Rules. That being so, we are not also impressed by the contention of the applicant that by virtue of the decisions of the Supreme Court relied upon by her, she is entitled to regularisation of her services by mere efflux of time. The direction of the Supreme Court to prepare schemes to regularise daily rated employees is not applicable to the cases where there are Recruitment Rules for filling up posts on regular basis.

13. In the conspectus of the facts and circumstances of the case, the application is disposed of at the admission stage itself with the following orders and directions:-

(i) The applicant will not be entitled to regularisation in the post of Lower Division Clerk merely on the ground that she has worked in the said post for one year.

(ii) The applicant should be accommodated in the vacancy of LDC which has arisen on the release of Shri Manoj Kumar Aggarwal for joining the Delhi Police on his appointment as Head Constable (Ministerial) with effect from 9.4.1990 notwithstanding the fact that under the instructions issued by the Government of India the ad hoc appointment of a person cannot exceed the period of one year.

*De*

(iii) We, however, make it clear that the services of the applicant could be replaced by a regularly appointed Lower Division Clerk sponsored by the Staff Selection Commission <sup>but</sup> till then she should be accommodated in the post of Lower Division Clerk.

(iv) We, therefore, set aside and quash the office order dated 10th September, 1990 purporting to terminate the ad hoc appointment of the applicant with effect from 10.9.1990.

There will be no order as to costs.

*D. K. Chakravorty*  
(D.K. CHAKRAVORTY)  
MEMBER (A) 16/11/1990

*P. K. Kartha*  
16/11/90  
(P.K. KARTHA)  
VICE CHAIRMAN(J)