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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2326/90

New Delhi this the 25th day of January, 1995

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN
HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER(A)

1. Pramod Kumar,
S/O Yatendra Kumar,
Chemist, Directorate of
Prevention of Food
Adulteration, Delhi
Administration, Delhi.
 2. Girish Chandra Jain
S/O S. L. Jain, Chemist,
Deptt. of P.F.A., Delhi
Administration, Delhi.
 3. Vijay Kumar Sharma
S/O R. P. Sharma,
Chemist, Deptt. of P.F.A.,
Delhi Administration,
Delhi.
 4. Bishan Sarup Gupta,
Chemist, Deptt of P.F.A.,
Delhi Administration,
Delhi.
 5. M. S. Dhama S/O P. S. Dhama,
Chemist, Deptt. of P.F.A.,
Delhi Administration, Delhi.
 6. Nisar Ahmed S/O
Noor Ahmed, Chemist,
Deptt. of P.F.A.,
Delhi Administration,
Delhi.
- ... Applicants

(By Advocate Shri K. N. R. Pillai)

Versus

Delhi Administration
through the Secretary,
Medical & Public Health Deptt.,
Delhi.

... Respondent

(None appeared for the Respondent)

O R D E R

Shri Justice S. C. Mathur --

This case was listed for final hearing on
21.12.1994. The name of Shri M. C. Garg was printed

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in the cause list as the learned counsel for the respondent but no one appeared on behalf of the respondent even on revised call. Shri K. N. R. Pillai, learned counsel appeared for the applicants and took us through the records and advanced arguments. After hearing him the judgment was reserved.

2. The six applicants, viz., Pramod Kumar, Girish Chandra Jain, Vijay Kumar Sharma, Bishan Sarup Gupta, M. S. Dhama, and Nisar Ahmed, were working as confirmed Teachers under the Directorate of Education, Delhi Administration. On 16.2.1983, Dy. Education Officer (Co-ord.) issued notice inviting applications from Teachers possessing Master's Degree in Chemistry to work as Chemists under the Directorate of Prevention of Food Adulteration, Delhi Administration. The applicants applied for the post. On 29.8.1983 the Education Officer sent a list of 32 Teachers to Principal of the Institution where the Teachers were working requiring him to send vigilance clearance report in respect of the said teachers to the Administrative Officer, mentioning that the said Teachers were under consideration for appointment to the post of Chemists. The names of applicants 2 to 6 were included in the list. Thereafter, orders of applicants' appointment were issued. Copy of one of the appointment letters which bears the date 3.12.85 has been filed as Annexure A-IV. After the applicants had worked for about four years steps were initiated to repatriate the applicants to their parent department and to make fresh appointments against the

resultant vacancies by deputation. These steps were taken sometime in August, 1989. The applicants preferred representations dated 1.2.1989 to the Directorate of Prevention of Food Adulteration, Delhi Administration against their proposed repatriation. They asserted that they were entitled to be confirmed in the Department of Prevention of Food Adulteration and there was no cause to repatriate them to the Education Department. There was no response to this representation. Accordingly the applicants approached the Tribunal seeking direction to the respondent to consider them for confirmation from the dates they completed the probationary period of two years and not to treat them as deputationists. A prayer for interim relief was also made seeking stay of selection of fresh teachers to replace the applicants. The Original Application was admitted on 12.11.1990 and interim order was passed directing that the applicants shall not be replaced by fresh teachers.

3. In the present application, plea of the applicants is that under the relevant recruitment rules, 75% posts of Chemists in the Directorate of Prevention of Food Adulteration are to be filled by direct recruitment and the remaining 25% posts by promotion and there is no provision for appointment by transfer on deputation. It is claimed that the applicants were appointed after they had been selected by the Staff Selection Board. The applicants did not belong to the Directorate of Prevention of Food Adulteration and, therefore, their appointment is relatable to direct recruitment only. The rules prescribe two years' period of

probation. Maintenance of lien in the Education Department, the applicants' claim, is of no consequence. In support of the applicants' claim their learned counsel has placed reliance upon the following two authorities :-


(1) JT 1992 (6) S.C. 13 - Ram Prakash
Makkar vs. State of Haryana & Ors.

(2) ATR 1989 (1) CAT 462 - Mrs. Suraksha
Markande & Ors. vs. Union of India
& Another.

4. The claim of the applicants has been contested by the respondent, viz., Delhi Administration through its Secretary, Medical and Public Health Department, Delhi. It is stated in the reply that prior to October, 1976 the work of Prevention of Food Adulteration was being looked after by local bodies, viz., Municipal Corporation of Delhi, New Delhi Municipal Corporation and Cantonment Board. In October, 1976 this work was taken over by the Delhi Administration and the Directorate of Prevention of Food Adulteration came into existence in June, 1978. The staff in the Municipal Corporation of Delhi which was looking after the work was absorbed in the Directorate of Education, Delhi Administration on various equivalent posts. In order to maintain transferability of the posts of Senior Chemists it was decided by the respondent that the said posts would be filled on deputation basis from amongst post graduate teachers and trained graduate teachers working under the Directorate of Education, Delhi Administration. In pursuance of this decision the

first batch of Chemists was selected by the Staff Selection Board in the year 1980. The batch of 1980 was replaced in 1985 when the applicants were similarly selected and appointed. The applicants were also taken on deputation from the Education Department. The recruitment rules which were notified on 4.5.1978 provided two sources of recruitment to the post of Chemist - (1) promotion, and (2) direct recruitment. 25% of the vacancies were to be filled by promotion and the remaining 75% by direct recruitment. In view of the decision taken to make appointment on deputation basis, proposal was sent to the Medical Department on 16.8.1983 to amend the recruitment rules which remained pending and, therefore, no steps could be taken for the applicants' confirmation to the posts of Chemists. It is maintained that the status of the applicants remained that of deputationists and they did not acquire any right to remain in the Directorate of Prevention of Food Adulteration. The applicants' claim that they are to be treated as direct recruits has been denied and it is pointed out that their lien is being maintained in the Department of Education and, therefore, they cannot resist repatriation to their parent department.

5. Before we proceed to examine the claim of the applicants we may consider the dictum laid down in the two authorities cited by the learned counsel for the applicants and the extent to which the said authorities are applicable to the facts of the present case.



6. In Ram Prakash Makkar's case (supra) the facts were thus :

The applicant was confirmed Steno Typist in the Haryana Civil Secretariat. His services were placed at the disposal of the Directorate of Local Bodies where he was issued appointment order in the following terms :

"Shri Ram Prakash, Steno Typist, Haryana Civil Secretariat is appointed on transfer basis in this Directorate as an Assistant in the pay scale of Rs.525-1050. This appointment is purely temporary and he can be reverted back to his parent department as and when his services will not be required.

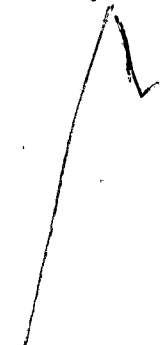
He will be on probation for one year and his lien will be retained in the Haryana Civil Secretariat until he is confirmed in this Directorate."

(emphasis supplied)

While serving on the post of Assistant in the Directorate of Local Bodies a post of Personal Assistant fell vacant. Shorthand and type test was held of the applicant and he was selected and given appointment order which reads as follows :-

"Shri Ram Prakash Makkar, Assistant of Directorate is hereby promoted to the post of Personal Assistant to Director, Local Bodies, Haryana in the pay scale Rs.1640-60-2600-75-2900 + 75 spl. pay. He will be on probation for a period of one year, which can be extended upto a maximum period of one year. If his work and conduct during the probation period is not found satisfactory he will be liable to be reverted to the post of Assistant without assigning any reason."

(emphasis supplied)



On completing the probation period of one year, an order was passed on 5.10.1988 which reads as follows :-

"As per the terms and conditions of promotion order of Ram Prakash, Assistant, to the post of Personal Assistant to Director, Local Bodies, Haryana, issued vide Endst. No. 7187-2A-87/3221 dated 4-9-87, he has been declared to have completed his probation period from 4-9-1987 to 5-9-1988 satisfactorily."

The appellant represented to the Director to formally absorb him in the Directorate. This lead to exchange of correspondence between the Directorate of Local Bodies and the Government, the former asking the latter to terminate appellant's lien so that he may be absorbed in the Directorate and the latter insisting that he may be first confirmed so that his lien may be terminated. It was in this state of correspondence that an order of appellant's repatriation was passed by the Directorate in the following terms :-

"Shri Ramprakash Makkar, Steno-typist of Secretariat Establishment who was appointed as Assistant in this Department vide order dated 8-1-86 and now working as Personal Assistant/D.L.B. is hereby reverted to his parent department with immediate effect as per terms and conditions of his appointment letter as the services of the official are no longer required in this department."

The order of repatriation was challenged before the High Court of Punjab and Haryana on the ground that the applicant was appointed in the Directorate by transfer and it was not a case of deputation and, therefore, there was no occasion to repatriate the appellant to his parent department. The High Court

negatived the plea but in appeal their lordships accepted it observing in paragraph 10 of the report as follows :-

"10. The main question in this appeal is whether the appellant was appointed by transfer as an Assistant in the Directorate or whether it was a mere case of deputation. We have set out hereinbefore the order of his appointment in the Directorate. The order has to be read as a whole. It says that the appellant is "appointed on transfer basis" as an Assistant in the Directorate. It also says that his appointment is purely temporary and that he can be reverted to his parent department as and when his services are not required. The order further says that the appellant shall be on probation for one year and that his lien in the Civil Secretariat Service will remain until he is confirmed in the Directorate. Now what do these three features read together mean? The Division Bench has laid emphasis upon the second feature, ignoring the first and the third. With respect we are unable to agree with its view. The fact that it is termed as an appointment on transfer basis coupled with the fact that his probation is commenced shows that it was a case of appointment by transfer and not one of deputation. Indeed, the order expressly contemplates his confirmation in Directorate. It is true that the order does recite that his appointment is purely temporary and he is liable to be reverted back to his parent department at any time. But this clause must be read along with other recitals in the order and if so read, it must be understood as operative during the period of his probation only. Once his probation was declared to have been satisfactorily completed and - particularly after he was also promoted as Personal Assistant in the Department, and his probation commenced and declared in such post also - it appears rather odd to say that he was only on deputation in the Directorate. The correspondence between the Directorate and Secretariat referred to hereinbefore

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further reinforces our opinion. When the appellant expressed his desire to be absorbed as Personal Assistant in the Directorate and requested the Director to approach the Secretariat for terminating his lien, the Director agreed with his request and requested the Secretariat to terminate the appellant's lien therein so as to enable him to absorb the appellant in his service. In his letter dated 15th February, 1989, the Chief Secretary replied that his lien will be terminated only when he is confirmed in the Directorate. In his letter dated 23rd February, 1989, the Director requested the Chief Secretary again to terminate the appellant's lien in the Secretariat service so as to enable his absorption in the Directorate. All this correspondence goes to show that all that was remaining to be done was a formal order of termination of his lien in the Secretariat Service and a corresponding order of confirmation in the Directorate. It is not without significance that at no stage did any one suggest that the appellant was on deputation - not even in the impugned order. It was put forward as a defence for the first time, in the writ petition. In the face of all this material, we find it difficult to agree with the respondents that the appellant was merely deputed to serve in the Directorate and his reversion back to the Secretariat is unexceptionable."

It may be pointed out that the order of repatriation was passed after the appellant had already worked in the Directorate for more than five years. The judgment of their lordships is based on - (1) the language of the appointment order in the Directorate; (2) the language of the order of promotion in the Directorate; and (3) the circumstances of the case especially — (i) at no stage prior to the filing of writ petition it was ever asserted that the appellant was on deputation; (ii) a specific order was passed to the effect that the appellant had successfully

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completed the period of probation in the promoted post; (iii) the correspondence between the Government and the Directorate revealed that neither the Government had any objection to the appellant's absorption in the Directorate nor the Directorate had any such objection; and (iv) the appellant failed to get absorption only because the Government and the Directorate could not decide as to who was to take the first step which will lead to severance of the appellant's link with his parent department.

7. Mrs. Suraksha Markande's case (supra) was decided by a Division Bench at the Principal Bench. The facts of this case were as follows -

The Ministry of Education and Culture (Department of Education), later designated as Ministry of Human Resources Development (Department of Youth Affairs and Sports), launched a scheme for establishing a Nehru Yuvak Kendra (Centre) in every District of the country. For the operation of the scheme certain posts of Youth Co-ordinators were created. State Governments were requested to forward names of their officers who were willing to be appointed to the said posts. The process of selection involved initial assessment and selection by a Selection Committee of high ranking officers of the concerned States. Later the candidates recommended by the State Governments were considered by a Selection Committee appointed by the Central Government. The candidates selected by the Central Committee were appointed on deputation basis initially for a period of one year

and their further continuance depended on their selection in consultation with the Public Service Commission after the recruitment rules had been finalised. Appointments were made sometime in the year 1972. Draft rules for recruitment to the post of Youth Co-ordinators were sent to the Union Public Service Commission which accorded its approval in the year 1975. However, the rules were notified only on 13.9.1980. These rules described the posts of Youth Co-ordinator as General Central Service, Group-A Gazetted. A probation period of two years was fixed. The method of recruitment was "by transfer on deputation (including short-term contract), failing which direct recruitment." Selection for appointment to the post was to be made in consultation with the Commission. Consultation with the Commission was required for amending the rules and also for relaxing any provision of the rule. On 13.10.1986 the rules were amended. In the Schedule to the rules under column 10 the following note was inserted :-

"The suitability of the holders of the posts 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."
(emphasis supplied)

On 25.2.1987, the Government of India adopted a resolution which recited that keeping in view the growing need for developing, improving and broad-basing

the youth programmes which were being implemented for the rural youth through Nehru Yuva Kendras at the district level throughout the country and also devising and providing new opportunities for the youth in sports adventure and other youth development programmes, the Government were satisfied that the objective could best be achieved through the establishment of a well knit organisational structure with necessary resource and flexibility and for this purpose an autonomous society registered under the Societies Registration Act of 1860 would be the best agency. In pursuance of this resolution Nehru Yuva Kendra Sangathan was established and registered as a Society. On 24.3.1987, an office memorandum was issued to the Youth Coordinators informing them that the Sangathan would take over the management and administration of Nehru Yuva Kendras located in various districts in phases, w.e.f. 1.4.1987 and the Sangathan would give direction for implementation of programmes and activities of Nehru Yuva Kendras keeping in view the Government resolution dated 25.2.1987. Through another letter issued on the same date the Government of India conveyed the sanction of the President to the extension in the period of deputation in respect of all the existing Youth Coordinators upto 30.6.1987 with the warning that the deputation could be terminated even before 30.6.1987 without assigning any reason in public interest. Another letter was issued on 13.4.1987 in which it was stated that the Sangathan would administer, supervise, monitor and expand the rural youth programmes

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in a phased manner from 1.4.1987 and that the Sangathan was in the process of framing its own rules for various categories of posts. It was also mentioned that the deputation of all Youth Coordinators had been extended till 30.6.1987 to facilitate easy transfer of work to the Sangathan and also to ensure some continuity in the programmes and activities. It was further mentioned in this letter that after the Recruitment Rules of the Sangathan had been finalised and approved by the Government, the Sangathan would start functioning as per its rules and Youth Coordinators on deputation may have to opt for absorption or otherwise if they were willing with the consent of their respective parent departments depending upon the Sangathan selecting them through its process of recruitment. It was clarified that Youth Coordinators on deputation might have to revert to their parent departments if they were not selected or if they did not want to be absorbed on such terms and conditions as the Nehru Yuva Kendra Sangathan might prescribe. It was at this stage that the applicants, who were described to be on deputation and were threatened with repatriation, filed O.A. before the Tribunal asserting that they had completed the maximum period of deputation prescribed in the Fundamental Rules and they could not, therefore, be treated to be on deputation and accordingly there was no question of their being subjected to selection for the purpose of absorption/repatriation. Their plea was that on the facts and circumstances of the case they had to be treated to have been appointed regularly to the

post of Youth Coordinator on transfer basis. The plea of the applicants was resisted by the Government on whose behalf it was pleaded that the Youth Coordinators all along remained on deputation and the mere fact that they were not repatriated within the period of five years did not confer any right upon them to remain in the borrowing department. The Division Bench did not accept the defence and accepting the plea of the applicants observed :-

"All this is indicative of the fact that the intention of the Government was to absorb the applicant and other Youth Co-ordinators on deputation into a permanent cadre, rather than continuing them on purely temporary basis on deputation. Normally the term of deputation is 3 years which may be extended upto 5 years if need be. Thus the very fact that the applicants and other deputationists - Youth Co-ordinators were retained on deputation for a long period of 5-12 years would countenance the plea of the applicants that the intention of the respondents was to absorb them permanently at the 'initial constitution' in the cadre of Youth Co-ordinators. There was hardly any occasion for the Government to extend the deputation of the applicants and others like them for over 10-15 years had it been envisaged that the Nehru Yuvak Kendras were to be manned by only temporary hands taken on deputation from time to time.....Further the very fact that the advice of the U.P.S.C. was sought for regularising their deputation subsequent to the coming into force of the Recruitment Rules would fortify the conclusion that the intention of the Government was to absorb them on regular basis. The mere use of the word 'deputation' would not be conclusive of the inference that they were to be continued on deputation for ever...."

Again in paragraph 8 it has been observed :-

"The approval of the UPSC for appointing them on deputation on regular basis vide letter dated 28th of November, 1985, was, therefore, quite enough for their

permanent absorption in the cadre of Youth Co-ordinators and taking into account all these facts cumulatively, we hold that the applicants and other similarly situate deputationists holding the post of Youth Co-ordinators would be deemed to have been appointed to the said post on regular basis at the 'initial constitution'. In other words, they would be deemed to have become Central Government employees."

Further, in paragraph 11 it is observed :-

"It bears repetition that the so-called deputation of the applicants and other Youth Coordinators was unduly protracted from the normal period of 3-5 years to 10-12 years and an expectation was generated in them that on the finalisation of the Recruitment Rules, they would be absorbed in the cadre of Youth Coordinators."

In paragraph 12 the Bench have referred to the principle of promissory estoppel and applied the same to the case of the applicants. In paragraph 15 the scope of Article 14 has been dealt with which as observed by the Bench, strikes at arbitrariness in State action. The action of the State was held by the Bench to be arbitrary, attracting Articles 14 and 16 of the Constitution.

8. An analysis of the above judgment shows that relief was granted to the applicants on the following considerations :-

- (1) They remained in the so-called borrowing department much beyond the period of deputation prescribed in rules;
- (2) The facts and circumstances of the case revealed that from the very beginning the

intention of the Government was to fill the posts on regular basis by transfer; and

- (3) The action of the Government created a reasonable expectation in the applicants that they would be absorbed in the cadre of Youth Coordinators and they will not have to go back to their parent department and therefore the principle of promissory estoppel was attracted.

9. In our opinion, both the decisions relied upon by the learned counsel are based on their own facts. They are based on five important factors - (i) intention of the parent department at the time of releasing the official for taking up assignment in the other department; (ii) intention of the borrowing department ^{while} accepting the official; (iii) the impression created in the mind of the official; and (iv) the period of stay of the official in the new department; and (v) the position of rules. In both the cases it was found that the parent department intended to release the official with a view to his ultimate absorption in the new department and the new department accepted the official with a view to ultimately absorb him. At the very inception of the so called deputation, the official had the reasonable expectation of being absorbed in the new department. The expectation was strengthened when he was not sent back to the parent department on the expiry of the normal period of deputation; rather he was continued without any specific order extending the period of

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so called deputation. Let us now examine whether the facts of the present case are comparable to the facts of the above two cases.

10. A copy of the recruitment rules for appointment to the post of Chemist has been filed as Annexure A-I. Rule 10 prescribes the method of recruitment. The method prescribed is "75% by direct recruitment. 25% by promotion failing which by direct recruitment." There is thus no provision for filling the post of Chemist by transfer on deputation or mere transfer.

11. In Swamy's Compilation of Fundamental Rules and Supplementary Rules (Part-I General Rules) 1992 Edition, it is mentioned at page 425 as follows :-

"8. Tenure of Deputation

8.1 The period of deputation shall be subject to a maximum of three years in all cases except for those posts where a longer period of tenure is prescribed in the Recruitment Rules.

8.2 The Administrative Ministries may grant extension beyond this limit up to one year, after obtaining orders of their Secretary, in cases where such extension is considered necessary in public interest.

8.3 The borrowing Ministries/Departments may extend the period of deputation for the fifth year or for the second year in excess of the period prescribed in the Recruitment Rules, where absolutely necessary, subject to the following conditions :-

- (i) While according extension for the fifth year or the second year in excess of the period prescribed in the Recruitment Rules the directive issued for rigid application of the tenure rules should be taken into consideration and only in rare and exceptional circumstances, such extensions should be granted.

- (ii) The extension should be strictly in public interest and with the specific prior approval of the concerned Minister in the borrowing Ministry/Department.
- (iii) Where such extension is granted, it would be on the specific understanding that the officer would not be entitled to draw deputation (duty) allowance.
- (iv) The extension would be subject to the prior approval of the lending organisation of the officer on deputation, and wherever necessary, the UPSC.

8.4 In cases where the extension is beyond the fifth year or beyond the second year in excess of the period prescribed in the Recruitment Rules, the same would be allowed only after obtaining the prior approval of the Department of Personnel and Training. Proposals in this regard should reach this Department at least three months before the expiry of the extended tenure."

12. In the case on hand, the applicants came to the Food Adulteration Department on 14.10.1985. Before they had completed five years of stay in the said department, steps were taken for their repatriation to their parent department. It is, therefore, not a case where the applicants continued in the so-called borrowing department much beyond the maximum period of deputation prescribed in the rules.

13. F.R. 14-A provides :-

"(a) except as provided in clauses (c) and (d) of this rule and Rule 97, a Government servant's lien on a post may, in no circumstances, be terminated, even with his consent, if the result will be to leave him without a lien or a suspended lien upon a permanent post.

(b) xxx

(c) xxx


(d) A Government servant's lien on a post shall stand terminated on his acquiring a lien on a permanent post (whether under the Central Government or a State Government) outside the cadre on which he is borne."

14. In the aforesaid Swamy's Compilation is contained Government of India's order dated 1.10.1963 at page 38 which reads as follows :-

"In all cases where a Government servant is to be absorbed permanently by the foreign employer under his organisation, it would be incumbent on him to consult the parent employer before issuing orders absorbing the Government servant permanently in his service. The orders of permanent absorption should be issued only after the resignation of the Government servant has been accepted by the Government and with effect from the date of such acceptance."

In the case on hand, it is not the case of the applicants that the Food Adulteration Department consulted the Education Department for the applicants' absorption in the former department. It is also not the case of the applicants that they submitted their resignation from the posts held by them in the Education Department. In view of these rules, the applicants did not acquire any right in the Food Adulteration Department.

15. We may now proceed to examine the factual position. Copy of the notice dated 16.2.1983 inviting applications for appointment to the post in question in pursuance to which the applicants also applied, is at Annexure A-II. Relevant portion of this notice reads thus :-



"Applications from desirous and eligible Post Graduate Teachers.....are invited to work as Chemists under the Directorate of Prevention of Food Adulteration, Delhi Administration, Delhi, in the pay-scale of Rs.550-900 on transfer basis for a period of one year in the first instance.... The applicant must be quasi-permanent/permanent employee of this Directorate."

A copy of the order of appointment issued to one of the applicants has been filed as Annexure A-IV relevant portion of which reads thus :-

".....is hereby appointed as Chemist in the scale of Rs-500-900 plus usual allowances as admissible under rules on transfer basis (without deputation allowances) for a period of one year in the first instance w.e.f. 14.10.85 (F.N.). That Deptt. will be at liberty to revert him to his parent deptt. in case his performance is not found satisfactory." (emphasis supplied).

The appointment order uses the expression 'transfer basis'. The transfer is, however, for a specified period, namely, one year. Transfer basis is not one of the modes of recruitment prescribed in the statutory rules. In the reply filed on behalf of the respondents it is stated that the Delhi Administration had decided that the post be filled on deputation basis from amongst teachers working under the Directorate of Education. It was in pursuance of this decision that the first batch of Chemists was selected by the Staff Selection Board in 1980. This batch was replaced by 8 Chemists in 1983 and again by Chemists in 1985. Thus, in the Department of Food Adulteration on earlier occasions also teachers were taken on deputation. It is also mentioned in the reply that a proposal was sent to the Medical Department on 16.8.1983 to

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amend the recruitment rules. A copy of this letter is Annexure-B to the reply. By the proposed amendment the following provision was contemplated to be made :-

"25% by promotion failing which by direct recruitment. 75% by Direct Rectt. or by transfer on deputation or transfer from various Depts. of Delhi Admn."

16. From the background stated herein, the applicants can be treated to have come to the Directorate of Prevention of Food Adulteration only on deputation basis. They cannot be treated to have come in the said department by direct recruitment which is the claim of the applicants." There is no long delay in sending back the applicants to their parent department. The applicants did not earn promotion to any higher posts. None of the letters placed on record give the impression that the applicants had the chance of being confirmed in the Directorate of Prevention of Food Adulteration.

17. In view of the above, we are of the opinion that the applicants could not under rules have come to the Directorate of Prevention of Food Adulteration on transfer basis and factually also they did not come to the said department on that basis. No relief can be granted to the applicants which would run counter to the rules.

18. In view of the above, the application is dismissed, but without any order as to costs.

P. T. Thiruvengadam

(P. T. Thiruvengadam)
Member (A)

S. C. Mathur

(S. C. Mathur)
Chairman

/as/