

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

O.A.NO.2404/90

Hon'ble Shri J.P.Sharma, Member(J)  
Hon'ble Shri P.T.Thiruvengadam, Member(A)

New Delhi, this 2nd day of March, 1995

Mrs. Manju Saxena,  
w/o Mr. B.G.Saxena  
r/o 7/92, Lodi Colony  
New Delhi-110 003.

Investigator Grade-II  
Ministry of Labour  
Shram Shakti Bhawan  
New Delhi.

..... Applicant

(By Shri S.C.Gupta, Advocate)

Vs.

Union of India through

1. The Secretary  
Ministry of Labour  
Shram Shakti Bhawan  
Rafi Marg  
New Delhi - 110 001.

..... Respondent

(By Shri Madan & Shri P.H.Ramchandani, Advocates)

O R D E R

Hon'ble Shri P.T.Thiruvengadam, Member(A)

The applicant was functioning as Lower Division Clerk in the office of Director General(Employment and Training). She was appointed to the post of Computer on purely temporary basis w.e.f. 31.8.1974. Subsequently, she was regularised in the post of Computer w.e.f. 30.1.1979. While functioning as regular Computer, she was promoted and officiated as Investigator Gr.II w.e.f. 20.6.1979 on purely adhoc basis, initially for a period of three months. However, the adhoc arrangement continued and she was ultimately regularised as Investigator Gr.II w.e.f. 1.2.1991. This OA has been filed for a direction that the applicants services should be regularised from the date she initially took over the post of Investigator Gr.II.



2. The learned counsel for the respondents argued that the relief claimed is untenable since the recruitment rules for filling up of the post of Investigator Gr.II require a minimum of three years regular service in the lower post of Computer. The applicant had been promoted as Investigator Gr.II initially on 20.6.1979 i.e. within five months of being regularised as Computer w.e.f. 30.1.1979. The learned counsel for the applicant immediately prayed that his relief may be moulded to grant regularisation from 30.1.1982. It was argued that abridged relief may be granted where a major relief has been sought.

3. We find that the issue to be decided falls within a narrow campus viz. whether the ad-hoc service beyond 30.1.1982 upto the time the applicant was regularised on 01.02.1991 should be deemed as regular service. The learned counsel for the applicant relies on Principle 'B' spelt out in the orders of their lordships of the Supreme Court in the direct recruits Clause - II Engineering Officers Association Vs. State of Maharashtra (JT 1990(2) SC 264). Principle 'B' postulated reads as under:

4. "If the initial appointment is not made by following the procedure laid down by the rules but the appointee continuous in the post uninterruptedly till the regularisation of his service in accordance with the rules, the period of service will be counted."

5. It was argued that even granting that the applicant had been promoted in excess of the promotee quota, the Principle 'B' should cover her case. On the other hand, it is the stand of the respondent that the cororalary to Principle 'A', quoted here under, should apply to the case.

6. "The cororaly of the above rules is that where initial appointment is only ad-hoc and not in accordance to the rules and made as a stop gap arrangement, officiation in such post cannot be taken into account for considering the seniority".

7. The scope of Principles 'A' and 'B' has been gone into by the later orders of the Apex Court in Keshav Chandra Joshi and Others Vs. UOI and Another (AIR 1991 SC-284). A Full Bench of this Tribunal after discussing the relevant citations of the Hon'ble Supreme Court including the Keshav Chandra Joshi has held in Ashok Mehta and Other Vs. The Regional Provident Fund Commissioner and Others (TA No.43/87 decided on 5.2.1993) that the Principel 'B' laid down will apply only where the intial appointment is made deliberately in disregard of the rules and the incumbent allowed to continue in the post for a long period of about 15 to 20 years without reversion till his date of regularisation of service in accordance with the rules, there being power in the authority to relax the rules. The case before us is one where the ad-hoc service was not continued for a period of 15 to 20 years and hence, the benefits of Principle 'B' cannot be invoked.



8. The learned counsel for the applicant then argued that there is no specific allocation of quota between the various modes of filling up the post of Investigator Gr.II and hence Principle 'E' in the Maharashtra. Direct recruitment case should be followed. It is not necessary for us to go into the provisions of Principle 'E' since admittedly quota as specified has been prescribed for the three modes of filling up the post of Investigator Gr.II viz., direct recruitment, promotion and deputation/transfer.

9. In the circumstances, the OA ~~has~~ is dismissed. There shall be no order as to costs.

*P. J. Thiru*

(P.T. THIRUVENGADAM)

MEMBER (A)

*J. P. Sharma*

(J.P. SHARMA)

MEMBER (J)

/RAO/