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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2400/2004

with

O.A.No.2387/2004

M.A.No.1996/2004

Hon'ble Shri Justice B. Panigrahi, Chairman
Hon'ble Shri M.K. Misra, Member (A)

New Delhi, this the 30th day of September, 2005

O.A.No.2400/2004

Shri Sanjay Kumar Arya
S/o Late Sh. Rama Kant Arya
Ad-hoc Lecturere
Under Commandant
Indian Military Academy
Dehradun.

... Applicants

(By Advocate: Sh. B.S.Mainee)

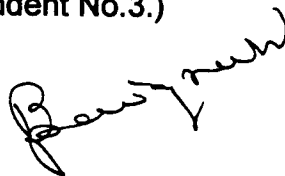
Vs.

Union of India through

1. The Secretary
Ministry of Defence
South Block
New Delhi.
2. The Director General of Military Training
General Staff Branch, Army Headquarter
DHQ P.O., New Delhi.
3. The Secretary
Union Public Service Commission
Dholpur House, New Delhi.
4. The Commandant
Indian Military Academy
Dehradun.
5. The Commander
Army Cadets College Wing
Indian Military Academy
Dehradun.

... Respondents

(By Advocates: Sh. Harinath Ram for Respondents No.1, 2, 4 and 5; Shri
Rajinder Nishchal for Respondent No.3.)



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O.A.No.2387/2004

1. Sh. Manoj Kumar Srivastava
S/o Sh. Manoj Om Parkash Srivastava
Ad-hoc Lecturer

2. Shri Sunil Bhaskaran
S/o Shri V.M. Bhaskaran
Ad-hoc Lecturer

All working under Commandant Army Cadet College Wing
Indian Military Academy
Dehradun – 248 007.

... Applicants

(By Advocate: Sh. B.S.Maine)

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1. The Secretary
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5. The Commander
Army Cadets College Wing
Indian Military Academy
Dehradun.

... Respondents

(By Advocates: Sh. Harinath Ram for Respondents No.1, 2, 4 and 5; Shri
Rajinder Nishchal for Respondent No.3.)

Rajinder Nishchal

ORDER

By Justice B. Panigrahi, Chairman

In the above two Original Applications, there will be common question of law and fact involved. Therefore, they are heard together and are disposed of by this order.

2. For the sake of convenience, we take the facts from OA No.2400/2004. In this OA, the applicants have been appointed as Lecturers on ad-hoc basis in Army Cadet College Wing of Indian Military Academy, Dehradun in grade Rs.8275-13500. They have claimed that they have put minimum requisite qualifications for being appointed as Lecturers. Since the time of their appointment, they have been discharging duties to the post upto the satisfaction of the respondents continuously except for sometime with artificial breaks.

3. In the past, they had filed an application claiming the same salary as that of regularly appointed Lecturers. This Tribunal permitted them to continue in their service without anybody being appointed in their place on ad hoc basis. The applicants also submitted a representation to Respondents No.1 and 2 for considering their case for regularization because they have already served uninterruptedly and satisfactorily for more than five years and as per the University Grants Commission's guidelines, being eligible to be appointed as Lecturer on regular basis. In the meanwhile, the Union Public Service Commission (for short 'UPSC') [Respondent No.3] has issued an advertisement for filling up the aforesaid posts. In the event the said posts are filled up by the UPSC, they shall loose their job and become unemployed. Thus, they are seeking a direction to consider their cases for regularization and

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referring the case to the UPSC keeping in view their long satisfactory ad-hoc services on the basis of their service record and performance.

4. Respondent No.3 has filed the counter reply, in which it is reiterated that the applicants were appointed as Lecturer only on ad-hoc basis but that shall not by itself confer them a right to claim regularization. Since they were not recruited as per the recruitment rules and their services were utilized as stop-gap arrangement, they cannot claim as a legal right for regular absorption. Sympathy and sentiments on account of their length of service cannot be a ground to make their services regular nor they have an inherent legal right on the post. They have also enclosed a copy of the instructions of Department of Personnel & Training dated 29.10.1975, in which it is clearly stipulated that the ad hoc appointment can be made for a period of one year and the ad-hoc appointee cannot be replaced by another ad-hoc appointee.

5. Respondents No.1, 2, 4 and 5 have also filed their separate counter reply, in which they have enclosed a copy of the order passed by the Bombay Bench of this Tribunal in OA No.57/1995 and OA No.450/1998, which were disposed of on 23.9.1998 whereby the claim of the applicants for regularization was rejected but it was, inter alia, directed that they should continue in service on ad-hoc basis without any break. They shall also be entitled for other service benefits except the entitlement of leave credit. The Principal Bench of this Tribunal had also passed a similar order in OA No.1348/2001 with connected OA No.1467/2001, OA No.2003/2001 and OA No.1434/2001 in line of the order passed by the Bombay Bench.

6. The learned counsel appearing on behalf of the applicants submitted that his clients have been continuing as Lecturer for more than six years albeit on



ad-hoc basis and it would be injudicial, unequitable and improper to ask them to appear before the UPSC for the post of Lecturer along with other candidates. It must be borne in mind that the applicants have gained sufficient experience in the field of education and their service put to the institution is indispensable. Therefore, the past service in teaching profession cannot be ignored while selecting the candidates for the post of Lecturer. It has been further contended that the applicants have been performing their duties to the best of their ability and to the satisfaction of the respondents' authorities. In such circumstances, the UPSC should be asked to conduct a special selection test to regularize their services.

7. Sh. Rajinder Nischal, the learned counsel appearing on behalf of Respondent No.3, has submitted that the applicants having been appointed on ad-hoc basis de-hors the recruitment rules, cannot claim to be regularized in the aforesaid post. In case this practice is followed, the meritorious candidates would be precluded from being appointed on the aforesaid post. Back-door entry in service, at all times, is to be discouraged.

8. It is true that the applicants might have put in more than six years of service but that by itself does not provide them a ground to claim regularization in the aforesaid post.


9. Shri Harinath Ram, the learned counsel appearing for Respondents No.1, 2, 4 and 5 submitted that it is true that in order to mitigate the exigency of service, these applicants had been appointed on ad-hoc basis but in their order of appointment, it was unequivocally indicated that their services can be terminated after UPSC nominee reports for duty or the work of the applicants is not found satisfactory. It has been clearly stipulated that appointment on ad-hoc basis will not bestow upon the applicants a claim for regular appointment. Since it

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is a contractual service, after completion of contract, the applicants could not have any right against such post.

10. Upon hearing the learned counsel appearing for both the parties and on perusal of the grounds stated in the application and also the counter reply submitted by the respondents, we find that the applicants undisputedly were appointed as Lecturer on ad-hoc basis. It is true that they continued for more than six years. Ad-hoc appointee cannot claim any right against the UPSC nominee. In order to meet the exigency of services, sometimes the administration requires to make appointment on ad-hoc basis but within a period of one year, they should have taken steps to replace the ad-hoc appointees by the regularly appointed persons. In such case, it is true that selection could not be taken for a long time but that by itself, shall not be a ground available to the applicants to claim regularization.

11. Since the applicants have rendered service for more than six years, some of them might have crossed their upper age limit. Therefore, if the applicants so choose, they can submit applications for the post of regular appointment as Lecturers. In the event they are found overage, the authorities concerned shall relax their age limits by adding the period of service rendered by the applicants as Lecturers on ad hoc basis. In the event the selection is conducted by the UPSC for the post of Lecturer, the applicants may also be given due weightage for the service rendered by them but the Tribunal cannot issue any such directions as to how much weightage is to be given to the applicants while their individual cases are considered. In this regard, we rely upon the Judgement of the Hon'ble Supreme Court in the case of DR. SURINDER SINGH JAMWAL AND ANOTHER Vs. STATE OF JAMMU & KASHMIR AND OTHERS, AIR 1996 SC 2775. It held:



"3. Following the above directions, there shall be a direction to the State Government to notify the vacancies to the Public Service Commission within a period of two months from today. On notification so made, it would be open to the appellants to apply for regular recruitment. It would be for the PSC to consider the respective claims of the candidates who have applied for and to make necessary selection according to rules. On selection so made and recommendation made to the State Government, the State Government will make appointments as per rules within a period of two months from the date of the receipt of the list of the selected candidates from the PSC. The PSC is directed to complete the process of the selection within a period of three months from the date of the receipt of the requisition. The State Government after receipt of the lists shall make the necessary appointments in accordance with law. Till then the appellants would continue only on *ad hoc* basis till the regularly selected candidates are appointed.

4. It is obvious that the appellants have become barred by age for the direct recruitment. It would, therefore, be necessary that the State Government would relax the necessary age qualification so as to enable them to apply for and seek recruitment through PSC.

5. The contesting respondents who have come on record have stated that the panel stands expired during the interregnum due to the order of suspension granted by this Court. Under these circumstances, the life of the panel is extended for the period during which the stay order is in operation."

The practice to fill up the post on ad-hoc basis is deprecated. In case the principle of ad-hocism is followed, it will result in distortion in the service and there would be instances of heartburning, manipulation and corruption. Therefore, the Supreme Court had directed various State Governments to stop the ad-hoc appointments in order to avoid nepotism and corruption [See: **State of U.P. & Others Vs. Dr. R.K. Tandon and Others**, (1996) 10 SCC 247]].



12. In view of the above discussion, we are of the considered opinion that since the applicants are now working as ad-hoc Lecturers, they shall continue as such till the regular appointees by the UPSC are selected. They can also become a candidate for the post of Lecturer and their cases shall be considered along with others by relaxing their age to the extent of the service they rendered in the institution. At the time of selection, the respondents may also keep in mind their past service rendered as such and weightage to be given.

13. With the above directions, both the applications are disposed of.

(M.K.MISRA)
Member (A)

(B. PANIGRAHI)
Chairman

/Rao/