

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 1452/92  
T.A. No.

199

(16)

DATE OF DECISION 19.1.98

Sh..S.L.Aggarwal

Petitioner

Sh.D.R..Gupta

Advocate for the Petitioner(s)

Versus

UOI & Ors

Respondent

Sh.K.R.Sachdeva

Advocate for the Respondent

**CORAM**

The Hon'ble Smt.Lakshmi Swaminathan, Member(J)

The Hon'ble Sh.R.K.Ahooja, Member(A)

1. To be referred to the Reporter or not? *yes* X
2. Whether it needs to be circulated to other Benches of the Tribunal

*Lakshmi Swaminathan*  
(Smt.Lakshmi Swaminathan)  
Member(J)

Central Administrative Tribunal  
Principal Bench

O.A. 1452/92

(17)

New Delhi this the 19 th day of January, 1998

Hon'ble Smt. Lakshmi Swaminathan, Member(J).  
Hon'ble Shri R.K. Ahooja, Member(A).

Shri S.L. Aggarwal,  
Flat No. A-21, Plot No. 46,  
Vishwa Apartments,  
Sector 9, Rohini,  
Delhi-85.

...Applicant.

By Advocate Shri D.R. Gupta.

Versus

1. Union of India through  
the Director General of  
Health Services,  
Nirman Bhawan,  
New Delhi-110 011.
  2. The Principal and  
Medical Superintendent,  
Lady Hardinge Medical College,  
and Smt. Sucheta Kripalani Hospital,  
New Delhi.
- ...Respondents.

By Advocate Shri K.R. Sachdeva.

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicant is aggrieved by the order dated 14.5.1992 whereby he was reverted from the post of Assistant Accounts Officer (AAO) to his regular post of Accountant.

2. The applicant claims that he was appointed to the post of Accountant in the scale of Rs.425-750 on 8.8.1984 and he continued to work on that post till 27.3.1985. He was appointed on ad hoc basis as AAO in the scale of Rs.550-900 (revised Rs.1640-2900) on 28.3.1985 on ad hoc basis and was reverted as Accountant on 2.2.1986 when a senior person joined on that post. Again, he was appointed to the post of AAO on 9.6.1987. He claims that he was appointed against the



regular vacancy in accordance with the Draft Recruitment Rules although it was made on ad hoc basis. He had continued on that basis for about 6 years. He states that as per the Draft Recruitment Rules, the post of AAO is a non-selection post to be filled up on the basis of seniority-cum-fitness. Shri D.R. Gupta, learned counsel for the applicant, has submitted that the applicant was the only eligible person to be appointed as AAO on regular basis. He further submits that even after the impugned reversion order to the post of Accountant, the applicant continued to perform duties of the higher post of AAO. He has also submitted that no show cause notice or reasons have been given to suddenly revert the applicant, although the post of AAO continued to remain vacant and no other person was appointed to that post till the date of retirement of the applicant on 31.10.1994. He has further submitted that since the applicant had continued on ad hoc basis as AAO for a number of years, he should be regularised in that post. The learned counsel has, therefore, submitted that the applicant should be considered to have discharged his duties as AAO on regular basis from the date of his initial appointment on 9.6.1987 till the date of his retirement with consequential benefits and the impugned order dated 14.5.1992 reverting him to the lower post of Accountant should be quashed and set aside. He relies on Para 2 (i) of Swamy's Manual on Establishment and Administration, 5th Edition, 1994 (copy placed on record). He has also relied on the judgements of the Supreme Court and the Tribunal in Union of India & Ors. Vs. N.R. Banerjee & Ors. (1997(2) SLJ 103), I.K. Sukhija & Ors. Vs. Union of India & Ors. (1997(6) SCC 406), Ram Vilas Pandey Vs. Union of India & Ors. (1990(14) ATC 116) and D.K. Yadav Vs. J.M.A. Industries Ltd. (1993 SCC (L&S) 723).



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3. The respondents in their reply have submitted that although the applicant was appointed initially on ad hoc basis for a period of six months from 9.6.1987, he continued to work as AAO upto 13.5.1992 although the approval of the competent authority, i.e. Dte. GHS for his extension had not been received. They have stated that the applicant was reverted to the post of Accountant when the Dte GHS did not allow continuance of his ad hoc appointment. They have stated that the post of Accounts Officer has been lying vacant since 1.2.1990. They have also stated that since he was appointed only on ad hoc basis, he could be reverted without notice. They have, therefore, submitted that no relief as prayed for may be granted to the applicant.

4. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties. The applicant was admittedly appointed to the post of AAO on ad hoc basis on 9.6.1987. It is not the case of the applicant that he had been given that appointment on ad hoc basis after due selection by the Selection Committee. In the circumstances, the judgement of this Tribunal in **Ram Vilas Pandey (supra)** would not assist him. Besides, in the impugned order dated 14.5.1992 reasons for continuance of the ad hoc arrangement by which the applicant had been appointed to the post of AAO have also been stated, namely, that the DGHS in his letter dated 6.5.1992 has not allowed the same to continue and hence he was reverted to his regular post of Accountant. In the circumstances, the question of quashing the impugned order on the ground that a show cause notice had not been given has no basis and the other cases relied upon by the applicant will not assist him in the facts of this case. It is relevant to note that the applicant has only

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been appointed on ad hoc basis as AAO and his claim that he should be appointed to that post on a regular post from the date of his initial appointment i.e. 9.6.1987 cannot be accepted. (See **E. Ramakrishnan Vs. State of Kerala** (1997(1) SLR 581)). In the case of **I.K. Sukhija & Ors. (supra)** relied upon by the applicant, there was a finding of the court that although the promotions were described as ad hoc because recruitment rules were not yet finalised, they were found to be not by way of stop-gap arrangement. In the facts of this case, however, we are unable to come to this conclusion on the basis of the materials on record. In **E. Ramakrishnan's case (supra)**, the Supreme Court has held as follows:

"2. It is sought to be contended by Mr. M.M. Paikeday, learned senior counsel for the petitioners that in the light of the law laid down by this Court in **Piara Singh's case** and in view of the fact that the petitioners have been continuing for more than 14 years, they are required to be regularised. We find no force in the contention. Admittedly, the posts are to be filled up through selection by PSC recruitment norms. Necessarily, therefore, the requisition was sent for selection through the PSC and candidates came to be selected. Under those circumstances, the candidates, who were found eligible and selected and recommended for appointment by the PSC, were required to be appointed. The Court rightly had exercised the power in declining to regularise the services of the petitioners".

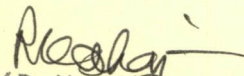
5. In the circumstances of the case, therefore, we cannot direct the respondents to appoint the applicant to the post of AAO on regular basis from the date of his initial appointment i.e. 9.6.1987 or to give him the consequential benefits. We are also unable to accept the other submissions made by the learned counsel for the applicant. The recent judgement of the Supreme Court in **Ram Lal Vs. Union of India** (JT 1997 (10) SC 482) is fully applicable to the facts of

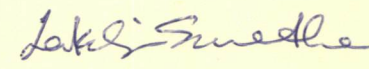
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this case, and unless he had been properly selected in accordance with the rules, he cannot claim service benefits of a regular employee from his initial appointment.

6. In the result, for the reasons given above, this application fails and it is accordingly dismissed. No order as to costs.

  
(R. K. Anooja)  
Member (A)

  
(Smt. Lakshmi Swaminathan)  
Member (J)

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