

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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O.A.No.1383/93

Date of decision: 17-9-93

Ms. Sobha Rani & Anr. Applicants

versus

ESI Corporation & Anr. Respondents

Coram:-

The Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman

The Hon'ble Mr. B.N. Dhoundiyal, Member(A)

For the applicants : Sh. S.S. Tiwari, counsel

For the respondents : Sh. G.R. Nayyar, counsel

JUDGEMENT

(delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A))

The applicants are aggrieved that they have not been given regular appointment in the post of L.D.C., presently held by them. Applicant No.1(Ms. Sobha Rani) joined as ad hoc L.D.C. on 5.10.1990 and Applicant No.2 (Sh. Satya Prasad) joined on 8.10.1990. Both of them have worked for more than 2 years. Both of them were selected on merits as it was an open selection by duly constituted Selection Committee and both of them are educationally qualified. E.S.I. Corporation (Recruitment) Regulations 1965 provide for recruitment by selection by a departmental committee

under Rule 21(b). The applicants have requested for directions to the respondents to regularise their services in the post of L.D.C. and not to dispend their services till they are regularised.

The averments made by the respondents are these. The applicants were appointed on the basis of interview initially for 89 days pending appointment of regular incumbents selected in accordance with the recruitment regulations. These appointments were extended from time to time till the Staff Selection Commission nominated 18 candidates for appointment of regular L.D.Cs. in January, 1993. It is clearly stated in their appointment letters that their appointments are on ad hoc basis as stop gap arrangement and these do not confer any right for regular appointment to the post of L.D.C. in the corporation. The appointment to the post of L.D.C. can be made through open competitive examination.

We have heard the learned counsel for the parties. Our attention has been drawn to the judgement dated 10.12.1992 delivered by a 3 Member Bench of the Supreme Court of India in Civil Appeal Nos. 5302-S/92 while setting aside the judgement of this Tribunal dated 15.2.1991.

It was held that such appointments were of casual nature, to continue only till candidates are available. As a result of the regular appointment held by the Staff Selection Commission 18 candidates have already been allocated to the corporation.

We are of the opinion that in the present case also the applicants were appointed only as a stop gap arrangement and have not acquired any right. The application is, therefore, disposed of with the following directions:-

(i) The respondents shall be free to appoint the nominees of Staff Selection Commission as and when they join.

(ii) In case any vacancy is left after their joining, the applicants may be given appointment in accordance with their seniority and on the principle of 'first come last go'.

There will be no orders as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 17/9/93
Member(A)

S.K. Dhaon
(S.K. Dhaon)
Vice Chairman