

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

original Application No. 821 of 2001

Allahabad this the 20th day of November, 2001

Hon'ble Mr. Justice R.R.K. Trivedi, Vice Chairman
Hon'ble Maj Gen K.K. Srivastava, Member (A)

Manoj Kumar Upadhyay, Son of Sri Gayatri Prasad Upadhyay, R/o Village Misrapur, Post Office Dubeypur, Tehsil Meja, District Allahabad and presently residing in Jawahar Navodaya Vidyalaya, Patehara Kalan, Mirzapur-231309.

Applicant

By Advocate Shri A.V. Srivastava

Versus

1. Union of India through Secretary, Ministry of Human Resources and Development (Department of Education), A-39, Kailash Colony, New Delhi-110048.
2. Director Navodaya Vidyalaya Samiti (Ministry of Human Resources Development, Govt. of India) A-39, Kailash Colony, New Delhi-110048.
3. Deputy Director, Navodaya Vidyalaya Samiti B-10, Sector-C, Aliganj, Lucknow(U.P.)
4. Principal Jawahar Navodaya Vidyalaya Patehara Kalan, Mirzapur(U.P.)

Respondents

By Advocate Shri Vinod Swarup

O_R_D_E_R (Oral)

By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

By this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant has prayed for direction to the respondents to regularise his services as L.D.C. with consequential

benefits. He has also prayed for a direction to the respondents to pay him full salary as he is discharging the duties for full time.

2. The facts of the case in short are that the applicant was employed as L.D.C. on ad hoc basis by order dated 18.11.99, copy of the order is annexure-2 to the O.A. By a subsequent order dated 15.07.00, the applicant's services were continued till such time, the regular incumbent joined. This order also provided that he will be paid a fixed salary of Rs.1410/- per month. The applicant continued to serve on the post on the basis of aforesaid order. The Principal of the college by his letter dated 24.03.01 (annexure A-7) recommended to the Deputy Director, Navodaya Vidyalaya for permission to regularise the services of the applicant after giving him 2 years relaxation in age limit. However, this request was turned down by the Deputy Director by his letter dated 09.04.01, copy of which has been filed as annexure-1 to the C.A. The Deputy Director had further directed to start the process of filling up the post as per direction contained in letter dated 28.11.2000. Shri A.V. Srivastava, learned counsel for the applicant could not point out any rules on which basis the relief of regularisation may be granted to the applicant. Learned counsel, however, submitted that when applicant joined the post in the year 1999, he was well within the age limit for the said post. The applicant has become overage during this period and if the fresh selection is carried out, he

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may not be able to compete unless the age relaxation is given to him. It is also submitted that the applicant may be allowed to continue on the post until it is filled by a regularly selected candidate. Shri L.M. Singh, learned counsel appearing for the respondents has submitted that the applicant is not entitled for any relief as prayed in the O.A. His engagement was casual and on part time basis and he is not entitled for any relief.

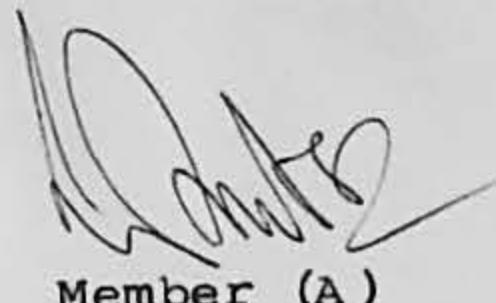
3. We have considered the submissions of counsel for the parties.

4. It is not in dispute that the applicant was engaged and he worked as L.D.C. for over two years. It is also not disputed that rule exists under which the relaxation in age may be granted. The Principal of the College has made strong recommendation in favour of the applicant as he was satisfied with his work and conduct. In these circumstances this O.A. may be disposed of with the direction to the respondents to consider the claim of the applicant for appointment on regular basis when the process is started for regular selection, and as the work is there as stated by the Principal, he may be allowed to continue on the same terms and conditions as contained in order dated 15.07.2000 (annexure-4).

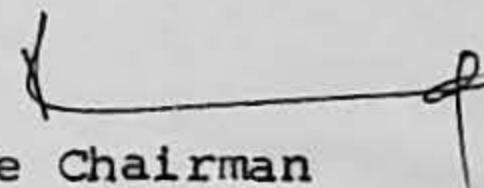
5. The O.A. is accordingly disposed of finally with the direction to the respondents to

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consider the claim of the applicant for regular selection after considering his claim for age relaxation as per rules. The applicant shall be allowed to continue on the post on same terms and conditions as provided in the order dated 15.07.00 (annexure-4). However, this order shall be applicable only in case the post ~~is~~ ^{has already} ~~not~~ ^{been a} filled up by the regular selection. No order as to costs.



Member (A)



Vice Chairman

/M.M./