

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 18th day of MARCH 2004.

Original Application no. 272 of 2004.

Hon'ble Maj Gen K.K. Srivastava, Member (A)
Hon'ble Mr. A.K. Bhatnagar, Member (J)

Bidesh Singh Chauhan, S/o Late Jagannath Singh,
R/o of Gopalnagar, Working as Security Supervisor in IVRI,
Izatnagar, Bareilly.

... Applicant

By Adv : Sri K.P. Singh

V E R S U S

1. Union of India through Secretary,
Ministry of Agriculture,
New Delhi.
2. Secretary Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi.
3. Director, IVRI, Izzatnagar,
Bareilly.
4. Chief Administrative Officer IVRI,
Izatnagar,
Bareilly.
5. In-Charge (Security), IVRI,
Bareilly.
6. Assistant Administrative Officer (Security),
Establishment-II, IVRI, Izatnagar,
Bareilly.

... Respondents

By Adv : Sri B.B. Sirohi.

ORDER

Maj Gen K.K. Srivastava, Member-A.

In this OA, filed under Section 19 of the A.T. Act,
1985, the applicant has prayed for quashing the impugned
order dated 12.03.2004 by which the applicant has been

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nominated as Shift In-charge and also order dated 12.09.2003 by which the applications have been invited from Security Guards for the post of Security supervisor.

2. The facts of the case, in short, are that the applicant was appointed as supporting staff Grade I (Security) in the respondent's establishment vide order dated 10.03.1994. The applicant joined his duties on 21.03.1994. By order dated 18.05.1996 the applicant was confirmed on the post. The applicant was entrusted the work of Security supervisor as stop gap arrangement by respondent no. 3 vide order dated 24/25.09.1997. The applicant filed a representation before respondent no. 5 on 27.09.2000 for regularising him on the post of Security supervisor. The applicant filed another representation before respondent no. 3 on 2.7.2001 followed by another representation dated 12.12.2001. The grievance of the applicant is that he has worked as Security supervisor for more than six years. ^{in and he is not being regularised as such.} He has also submitted his representation on 15.09.2003. ^{In view} of the notification dated 12.03.2004 by which the applicant ^{is aggrieved and} has filed this OA.

3. Heard sri K.P. Singh, learned counsel for the applicant and sri B.B. Sirohi, learned counsel for the respondents and perused records.

4. Sri BB Sirohi, learned counsel for the respondents at the outset submitted that the impugned order dated 13.03.2004 is ^{an} appealable order and the applicant should file appeal challenging order dated 12.03.2004 before respondent no.3.

5. Sri KP Singh, learned counsel for the applicant on

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the other hand submitted that in case the appeal is rejected, the applicant shall suffer irreparable loss.

Applicant's counsel placed before us the order of Principal Bench of this Tribunal in case of PRATIMA SHARMA (SMT) Vs. UNION OF INDIA, (1992) 20 ATC 382. He has also placed reliance on the judgment of Hon'ble Supreme Court in the case of STATE OF HARYANA AND OTHERS Vs. PIARA SINGH AND OTHERS, 1992 SCC (L&S) 825. We have gone through the case law on which the learned counsel for the applicant has placed reliance. Principal Bench of this Tribunal in case of Pratima Sharma (Smt) (Supra) has held as under :-

"We have carefully gone through the records of the case and have considered the rival contentions. Normally, ad hoc appointment is made as a stopgap arrangement. In the instant case, the applicant has worked for more than 4 $\frac{1}{2}$ years and it cannot be termed to be a 'stopgap' arrangement."

The Hon'ble Supreme Court in case of Piara Singh (supra) has held the following in para 46 & 49^h of the judgment :-

"46. Secondly, an ad hoc or temporary employee should not be replaced by another ad hoc or temporary employee; he must be replaced only by a regularly selected employee. This is necessary to avoid arbitrary action on the part of the appointing authority.

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49. If for any reason, an ad hoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularisation provided he is eligible and qualified according to the rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the State."

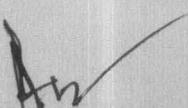
We find substance in the submission of learned counsel for the applicant that an ad hoc employee cannot be replaced by another ad hoc employee. Not only this in the instant case

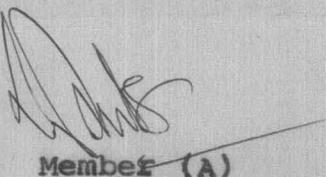
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the applicant has been continued as security supervisor continuously for more than six years. Learned counsel for the respondents submitted that it was an additional charge which the applicant was holding. We are not inclined to accept this argument of learned counsel for the respondents because admittedly the applicant has been holding the post of security supervisor since 24/25.09.1997. In our opinion it would be appropriate for the applicant to file a detailed representation before respondent no. 3 who should decide the same by passing reasoned and speaking order within a specified time. We expect the respondent no. 3 to keep in mind the legal position, as already discussed by us, while deciding the representation of the applicant.

6. In the facts and circumstances, the CA is disposed of at the admission stage itself with direction to the applicant to file a detailed representation before respondent no. 3 within a period of two weeks alongwith copy of this order and the respondent no. 3 is directed to decide the same by passing reasoned and detailed order within a period of three months from the date of communication of this order alongwith representation. In order to protect the interest of the applicant, we provide that the operation of the order dated 12.03.2004 shall be held in abeyance and the applicant shall not be displaced from the work of security supervisor which he is performing for the last several years till the representation is decided by the respondent no. 3.

7. There shall be no order as to costs.


Member (J)


Member (A)

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