



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 927/2020

This the 27th day of April, 2021

(Through Video Conferencing)

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Dr. Nandita Chatterjee, Member (A)**

Sh. Bhupesh Kumar, aged 51 years,
S/o Sh. R. P. Bhaskar,
R/o Flat NO. 34, Bhagwan Buddha Apartment,
Parwana Road, Pitampura,
Delhi – 110034.

Presently posted as SE (SDW) 1,
Employee Code No. 20010916,
Kondli Sewage Treatment Plant.

... Applicant

(By Advocate : Mr. D. S. Chaudhary)

Versus

1. Union of India,
Through the Secretary,
Ministry of Personnel, P.G. & Pension,
Department of Personnel & Training,
North Block, New Delhi – 110001.

2. Delhi Jal Board,
Through its CEO,
Varunalaya, Phase-II, Karol Bagh,
New Delhi – 110005.

... Respondents

(By Advocate : Mr. Rajeev Kumar)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicant joined the service of Delhi Jal Board, the 2nd respondent herein as an Engineer. Up to the year 2019, he was holding the post of Superintending Engineer in substantive capacity. Through an order dated, 24.10.2019 he was promoted to the post of Chief Engineer, on ad hoc basis. The applicant was issued a charge memo on 14.01.2020. The 2nd respondent passed an order dated 07.07.2020 reverting the applicant to the substantive post of Superintending Engineer. Reliance is placed upon OM dated 24.12.1986 issued by DoP&T.

2. The said OM mandates that wherever an employee, holding the higher post, on ad hoc basis for a period of less than one year, is issued a charge memo, he is liable to be reverted to his substantive post. In case the employee held such post for more than one year, he need not be reverted to the post held by him on the ground of the disciplinary proceeding being initiated against him.

3. The applicant filed this OA challenging the order of reversion dated 07.07.2020 as well as the OM dated 24.12.1986. He contends that the said OM classified the employees: (a) who are working on ad hoc basis on promotional post for a period not exceeding one year and (b) those who worked in that capacity for a period of more than one year. He contends that when the officers working on ad



hoc basis on a higher post form a single class, there was absolutely no basis to make further clarification. It is also stated that the period of one year has no relevance in the context of reversion when the disciplinary proceedings are initiated.

4. The respondents filed a counter affidavit. It is stated that no employee has a vested right to be promoted on ad hoc basis or to be continued in that, and much would depend upon the need in the department as well as desirability or otherwise of the officer to be kept in charge of that post.

5. We heard Sh. D.S. Chaudhary, learned counsel for the applicant and Sh. Rajeev Kumar, learned counsel for the respondents.

6. It is a matter of record that the applicant was holding the post of Superintending Engineer on substantive basis and he came to be promoted on ad hoc basis, to the post of Chief Engineer, in the year 2020. A charge memo was issued on 14.01.2020. Taking the same into account the respondents passed order dated 07.07.2020 reverting him to the post of Superintending Engineer. Reference is made to OM dated 24.12.1986.

7. In the said OM it is directed that employees who are working on ad hoc basis against a promotional post for a period less than one year shall be liable to be reverted in the event disciplinary proceedings are initiated against them. Conversely, it is directed that in case the employee of that



category worked for a period exceeding one year, he need not be reverted to the post held by him only on the ground that disciplinary proceeding has been initiated against him. The OM reads as under:-

“The question whether a Government servant appointed to a higher post on ad hoc basis should be allowed to continue in the ad hoc appointment when a disciplinary proceedings is initiated against him has been considered by this Department and it has been decided that the procedure outlined below shall be followed in such cases:-

- (i) *Where an appointment has been made purely on ad hoc basis against a short-term vacancy or a leave vacancy or if the Government servant appointed to officiate until further orders in any other circumstances has held the appointment for a period less than one year, the Government servant shall be reverted to the post held by him substantively or on a regular basis, when a disciplinary proceeding is initiated against him.*
- (ii) *Whether the appointment was required to be made on ad hoc basis purely for administrative reasons (other than against a short term vacancy or a leave vacancy) and the Government servant has held the appointment for more than one year, if any disciplinary proceeding is initiated against the Government servant, he need not be reverted to the post held by him only on the ground that disciplinary proceeding has been initiated against him.*

Appropriate action in such cases will be taken depending on the outcome of the disciplinary case.”

8. It is true that the OM brings about a classification between the employees who worked for a period less than one year on one hand, and exceeding one year, on the other hand. The necessity to deal with the legality of the provision would arise if only it leads to infringement of any legal or constitutional right of the applicant. No employee has a vested right to be promoted on ad hoc basis to a promotional post. Even if the employee is qualified and there existed vacancy in the promotional post, he cannot claim as a right. Much would depend upon the need of the department or the existence of



workload and the like. The very fact that promotions were made on ad hoc basis discloses that some factor came in the way of regular promotions.

9. As long as the applicant does not have a vested right to be promoted to the promotional post, he cannot complain the *vires* of the OM dated 24.12.1986. Even otherwise, the classification, based upon the length of service, that too on ad-hoc basis cannot be said to be untenable. The factors like the employee has worked successfully for a period exceeding one year, the workload existed, are taken as basis for not disrupting the arrangement though the disciplinary proceedings may have been initiated against the employee. It would be for the department to make regular promotion for the betterment of the organization. Unless that arrangement is found to be in contravention of the specific provision of law, the same cannot be interfered with.

10. The applicant raised the ground that though the disciplinary proceedings were initiated against him, more than one year ago there is no progress in them. We are of the view that the interest of the applicant can be protected by directing the respondents to conclude the disciplinary proceedings within a period of six months from the date of receipt of certified copy of this order. It is needless to mention that in case the disciplinary proceedings against the applicant are dropped, the feasibility of restoring the applicant to the ad-hoc promotion shall be considered in accordance with law.



11. The OA is accordingly disposed of. There shall be no order as to costs.

(Nandita Chatterjee)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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