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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-ALLAHABAD BENCH-ALLAHABAD.

O.A. no. 642 of 1989.

Sri D.N. Thapliyal..... Applicant.

Versus

Union of India and others..... Respondents.

Hon'ble Mr. Justice U.C. Srivastava - V.C.

Hon'ble Mr. A.B. Gorthi - A.M.

(By Hon'ble Mr. Justice U.C. Srivastava V.C.)

The applicant holds a Master Degree in Mathematics and he was appointed Temporary Master in Maths^h in Rastriya Indian Military College (R.I.M.C.), Dehradun for a period not exceeding six months w.e.f. 18th August, 1984 which can be extended from time to time on temporary basis with a stipulation that his services can be terminated at any point of time without assigning any reason and this appoint^{ment} will not confirm any right on him to the post no intimation was given to him that his appointment would be terminated when the permanent duly selected candidates by the U.P.S.C. made available. There is no denial of the fact that the applicant prior to his appointment as Master in Maths in R.I.M.C. Dehra Dun worked as Senior Teacher in Mathematic in Guru Nanak Academy, Dehra Dun and thus he possessed the requisite qualification and teaching experience for appointment to the post in question. The appointment of the applicant was continued from time to time and in this manner^h continued to hold the post as Master in Math for about 7-1/2 years, and during this period no regular appointment in accordance with the Statutory rules was made.

The applicant approached this Tribunal praying that the respondents be restrained from recruiting any other Master in Mathematics either through U.P.S.C. or otherwise against a vacancy in the department in which he is working and they be further restrained from in any manner on the recommendation of the U.P.S.C. in regard to such appointment without first declaring the

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applicant to be permanent and that the respondent no. 3 may be directed to call the applicant for interview and treat him as ~~XX~~ class in himself having regard to the fact that he worked satisfactorily with respondent no. 1 and 2 for about 5 years and not to treat him new comer. Prayer for issue in the directions to the respondent to grant annual increment to the applicant w.e.f. August 1985, August, 1986 August, 1987 and August 1988 and grant further annual increment w.e.f. August, 1989 too has been made.

3. The respondents have resisted the claim of ~~the~~ ^{the} applicant and have pleaded that the applicant's appointment was temporary as a Master in Mathematics and thereafter the said temporary appointment was extended from time to time. The statutory Rule also provide that the applicant was required ^{to hold} ~~for~~ Degree/Diploma in teaching or two year's teaching experience and the post can be filled only through Union Public Service Commission on regular basis. The appointment given ^{from} the applicant, which extended time to time was only an adhoc appointment. The process of regular appointment involves time and the exigencies of service are such that the posts cannot be allowed to remain unmanned and the adhoc appointment does not confer any right on the employee so appointed. The respondents have relied ^{on the decision of} another Bench of this Tribunal in O.A. No. 614 of 1990 summarily dismissing the similar application. On the basis of the said judgement it has been stated that the Tribunal has taken a view that it was temporary appointment and the applicant had not ^{what} a right ^{to} which-so-ever ^{to} hold post and consequently he was rightly terminated. It appears that in the said case the applicant was not given opportunity for the appointment, and even though he also applied in pursuance of advertisement so made but he was not called for interview, the ground for which as given out by respondents was that better candidates were available the Tribunal was of the view that prayer at that stage when selected candidates

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were ~~for job~~ ^{available & jobs} cannot be granted and further the appointment of applicant in the said case could only be said to be ^a stop gap ~~of~~ arrangement.

The recommendations made by Public Service Commission are not binding on Government as is clear from Article 320 of the Constitution of India. The case for regularisation of the applicant who had worked for 7-1/2 years could have been referred to commission and it was only after rejection of same question of fresh appointment could have arisen. Regularisation is to be ^{the applicant} ~~resorted~~ ^{resorted} to first whenever possible in view of fact that ~~compliance~~ ^{compliance} ~~was~~ ^{steps} made to work for years together and ~~steps~~ ^{steps} for making appointment were not taken giving hope to the person who has gained sufficient experience of the post in question. Accordingly this application deserves to be allowed in part. The respondents are directed to consider the case of applicant for regularisation and till the ~~same~~ ^{appeal} is not considered and decided no fresh ~~appointment~~ ^{appointment} on the said post is to be made till then, if he is not regularised, he is to be given at-least two chances to appear before Public Service Commission and till then his services may not be terminated. No order as to the costs.

Member (A)
Member (A)

Vice Chairman
Vice Chairman.

Dt: February 19, 1992..

(DPS)