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THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH ALLAHABAD

Original Application No.656/93

Gorakh Nath Upadhyaya Applicant

vs

Union of India and others.. ... Respondents

-:-

HON'BLE MR MAHARAJDIN, MEMBER(J)

HON'BLE MISS USHA SEN, MEMBER(A)

(by Hon'ble Miss Usha Sen, Member-A)

Shri P.K.Mishra learned counsel for applicant.

Shri N.B.Singh, learned counsel for the respondents.

The facts of the case are briefly as under :

The name of the applicant was sponsored by the Employment Exchange along with other names in response to a requisition sent by respondent No.1 for filling up certain vacancies of Group 'D' posts in the office of the Director of Audit, N.E.Railway, Gorakhpur. The applicant appeared in the interview on 8-8-91 and figured in the panel of 12 candidates selected after the interview. The first 8 candidates in this panel were given appointment upto November 1992. In accordance with the departmental instructions the life of the panel was only for one year. A copy of the instruction No.1771-NGE.II/88-65-II dated 29-9-65 which was produced by the counsel for the respondents to the court shows that the life of the panel would be for one year, but it also appears to give a leverage for extension of the life by the competent authority. Another letter of the Department dated 7-12-92 (Annexure CA-I) also states that the life of the panel for Group 'D' posts would be for one year. Office records were shown to the court wherein orders for extension of the panel upto December 1992

had been issued. In the Counter Reply it has also been stated that when the life of the panel lapsed no vacancy was available to be filled in. As the applicant's name figured at Sl.No.10 of the panel he could not be offered appointment before the expiry of the panel.

The counsel for the petitioner stated that in terms of the Govt. of India, Ministry of Home Affairs, O.M. of 8-2-82 (Annexure 2) the life of the panel continues so long as any selected candidate is available in the panel and there is thus no limit on the life. He also stated that in the order issued by the Supreme Court in W.P.No.s 4480/80 and 2962/81 (1984)2 SCJ-57 the Supreme Court had expressed that its dissatisfaction the Rules of the Delhi Judicial Service had not been amended to be in conformity of the administrative instruction of 8-2-82 ibid. On the other hand the counsel for the respondents stated that these instructions of 8-2-82 were not administrative instructions applicable to the Indian Audit ^{and} Accounts Department, but to the Central Govt. ~~various~~ Ministries. To make them applicable to that

~~The Comptroller~~
Dept. the approval of Comptroller & Auditor General of India was necessary. They have also made these averments

in para 7 of their Counter Reply stating further that the

~~Comptroller~~

Comptroller & Auditor General had specifically issued a

circular (dt. 7-12-92 at Annexure CA-1) that the life

of the panel would be for only one year. We are inclined to agree with this contention of the respondents.

In view of the separate administrative instructions of the ~~Comptroller~~ Comptroller & Auditor General under whom the

respondents were working and as there has been no violation of these instructions we do not deem it fit to allow the relief of directing the respondents to issue appointment

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letter to the applicant. The application is dismissed.
S take up the matter with the Comptroller and Auditor General to
However, we direct the respondents to re-examine their
Rules in the light of the Ministry of Home Affairs O.M.
of 8-2-82 ibid and consider bringing them in conformity
with these instructions.

The application is disposed of with these orders.

No order as to costs.

Usha Devi
MEMBER(A)

Usha Devi
MEMBER(J)

DATED: Allahabad, February 28th, 1994.