

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 99 OF 1986.
~~ExAxxNoxx~~

DATE OF DECISION 3.2.1987.

RAJIV L. SARASWAT Petitioner

Y.N. OZA. Advocate for the Petitioner(s)

Versus

CHIEF MEDICAL OFFICER & ORS. Respondent(s).

R.P. BHATT. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. TRIVEDI, VICE CHAIRMAN.

The Hon'ble Mr. P.M. JOSHI, JUDICIAL MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Y.
3. Whether their Lordships wish to see the fair copy of the Judgement? Y.
4. Whether it needs to be circulated to other Benches of the Tribunal. No.

Rajiv L. Saraswat,
Health Inspector,
Godhra. Petitioner.

Versus

1. Chief Medical Officer,
Churchgate, Bombay.
2. Medical Superintendent,
Baroda Railway Station,
Baroda.
3. Divisional Regional Manager,
Baroda Railway Station,
Baroda. Respondents.

JUDGMENT

O.A. NO. 99 OF 1986.

Per : Hon'ble Mr. P.M. Joshi, Judicial Member.

In this petition under section 19 of the Administrative Tribunals Act, 1985, the petitioner, Shri Rajiv L. Saraswat, working as Health Inspector at Godhra, seeks orders restraining the Respondents from terminating his services and also claims permanent employment against the substantive post of Health Inspector. According to the petitioner, even though he is appointed on purely adhoc basis for three months, he has been continued for more than 18 months and at the same time, he answers all the qualifications for the post in question. Pending the petition the petitioner also sought interim relief against the issuance of order of termination which may be passed by the Respondents. The status-quo as prayed for was granted.

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2. The short plea of the Respondents is that the appointment of the petitioner is purely on adhoc basis for a period of three months or till such time Railway Service Commission (R.S.C.) candidates become available whichever is earlier. According to them, the petitioner during the period of his adhoc employment did apply and was also called for selection, but his name was not recommended by R.R.B and when R.R.B Candidates are now available the services of the petitioner are required to be terminated by following the prescribed procedure.

3. The crucial question to be decided in this application is as to whether the petitioner can claim permanent employment against the substantive post, as contended. When the matter came up for regular hearing neither the applicant nor the Respondents or their counsel were present. Hence we are constrained to render judgment on merit and on the basis of record.

4. It is undisputed that the petitioner was appointed on adhoc basis for a period of three months or till such time R.S.C. candidates become available. It is the case of the petitioner that on completion of his three months services, he becomes a regular employee in the cadre of Health Inspector. In this regard it will be useful to advert to the terms and conditions stipulated in the appointment order which reads as under :

"In terms of C M O(E) C C G's letter referred above, C M O has accorded sanction to the adhoc appointment of Shri Rajiv L. Saraswat as Health Inspector on pay Rs.330/- p.m in scale Rs.330-560(R) purely on adhoc basis (i.e. in substitute capacity) for a period of 3 months or till such time R S C candidates become available whichever is earlier.

However the above named candidate should be informed that his appointment is made purely on adhoc basis and do not confer on him any claim for permanent absorption against regular post. He will have to be got himself selected through R.S.C as and when the posts are advised by them. This should be got noted by him."

5. Now on the plain reading of the terms and conditions contained in the aforesaid appointment order as a whole, it can be very well said that there is hardly any merits in the contentions canvassed

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by the petitioner. It is clearly stipulated in the order of appointment that his engagement is made purely on adhoc basis and does not confer upon him any claim for permanent absorption against the regular post. The petitioner was also informed that his services will be dispensed with within three months or as soon as R.S.C. candidate is made available.

6. The petitioner sought reliance on the basis of the observations made in two cases viz; (i) Dhirendra Chamoli Vs. State of U.P., 1986(1) S.S.C 637), (ii) Surinder Singh Vs. Engineer-in-Chief, C.P.W.D., (1986(1) S.S.C. 639). The observations are extensively quoted in para 8 of the petition. Suffice, it to say, that the said observations are of little assistance to the petitioner, especially in view of the fact that petitioner is appointed purely on adhoc basis. It is now well established that a person appointed on adhoc basis, has no right to the post (see S.K.Verma Vs. State of Punjab, 1979 SLJ 477 & S.P. Vasudev Vs. State of Haryana, AIR 1975 SC 2292).

7. It is clearly borne out and stipulated in the order of appointment that the petitioner's appointment was purely on adhoc basis and did not confer upon him any claim for appointment to any post. If such adhoc appointments are made it would mean that technically the post in question is still vacant for the persons who is found eligible to occupy the quota post. An adhocist has got no right either of seniority or otherwise on the post on which his adhoc appointment is made and his right to that post begin or comes into existence only from the date from which his services are regularised. Under the circumstances it is not open to the petitioner to claim benefit of the services on the post on which he has served merely as an adhocist.

8. In our finding, the aforesaid stipulations made it obligatory for the appointing authority to terminate the appointment of adhoc employee when R.S.C. candidate is available. When persons qualified

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to be appointed to a post in accordance with rules, are available it is neither just nor proper to continue adhoc appointees who are not qualified to hold the post. In this view of the matter we find no merits in this petition. The petition accordingly, stands dismissed with no order as to costs. Rule stands discharged.

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(P.H. TRIVEDI)

VICE CHAIRMAN.

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(P.M. JOSHI)

JUDICIAL MEMBER.