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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 211 of 1987 198
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DATE OF DECISION 16/06/1987

Shri R N Sojitra Petitioner

B. B. Gogia Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

J. D. Ajmera Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. Srinivasan : Administrative Member

The Hon'ble Mr. P. M. Joshi : Judicial Member

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

JUDGMENT

O.A./211/87

16th June, 1987.

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Per : Hon'ble Mr P Srinivasan .. Administrative Member

This application was listed for admission to-day. However, as counsel on both sides were prepared to argue the matter on merits today itself, we proceeded to hear them.

This is an application filed under section 19 of the Administrative Tribunals Act, 1985. The applicant who was working as Stenographer Jr. grade in the office of the Deputy Chief Engineer, High Power Transmitter, All India Radio, Rajkot on an ad hoc basis complains in this application that his service has been illegally terminated by the office order dated 23rd April, 1987 at Annexure 'N', passed by the Superintending Engineer (SE), High Power Transmitter, All India Radio, Rajkot (Respondent No. 2).

Mr B.B. Gogia, learned counsel for the applicant strongly contended that the respondent S.E. should not have passed the impugned order as the applicant had been working in the organisation for more than 6 years. No doubt, he had been appointed on a temporary ad hoc basis by order dated 23.12.1980. Mr. Gogia also conceded that for regularisation, an ad hoc appointee has to appear in the selection test held from time to time by the Staff Selection Commission (S.S.C.). The applicant was permitted to appear for such selection in 1985, but he could not take the test due to illness. The respondents permitted him to take the test again in March, 1987 and the result of this test is still

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to be declared. In the meanwhile, the respondents decided to terminate the service of the applicant as the S.S.C. had proposed the name of another person for regular appointment. Having permitted the applicant to take the S.S.C. selection test, the respondents could have waited till the result of the test was declared. Shri Gogia admitted that if the applicant fails to qualify in the test, he will not have any right for regularisation. His appointment should have been continued till the result of the test was declared and if he was successful in the test, his appointment could have been made regular.

Mr. P.N. Ajmera for Mr. J.D. Ajmera, learned counsel for the respondents refuted the contention of Mr. Gogia. He urged that an ad hoc appointee has no right to continue after a candidate selected by the Staff Selection Commission became available for regular appointment and this was clearly spelt out in the order issued to the applicant. As a measure of sympathetic consideration, the respondents had permitted the applicant to take the test in 1987. In 1985, the applicant had failed to qualify due to sickness. But the result was that he had not become qualified by regular appointment till 1987. He therefore contended that the termination of the ad hoc service of the applicant was perfectly legal and that, therefore application should be rejected.

We are of the view that the applicant's challenge to the order dated 23.4.1987 (Annexure 'N') has to fail. The order of appointment issued to the applicant clearly spelt out that his appointment was purely ad hoc and was likely to be terminated when

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a candidate selected by the S.S.C. became available. Thus it was an appointment for a fixed term. If the applicant had meanwhile qualified in the S.S.C. selection test for regular appointment the appointment could have been regularised but the applicant could not do that till 1987. Mr. Gogia contended that under section 25F of the Industrial Dispute Act, the applicant should have been given one month's notice and retrenchment compensation. All India Radio is not an industry and therefore, the provisions of the Industrial Disputes Act do not apply to him.

In the result, we dismiss this application at the admission stage itself.

However, before parting with this application, we may draw attention to the fact that the applicant has worked for over 6 years in the organisation and this entitles him to sympathetic consideration from the respondents if he qualifies in the selection test held by the S.S.C. in March, 1987.

Parties to bear their own costs.

P. Srinivasan

(P Srinivasan)
Administrative Member

J. M. Joshi

(P. M. Joshi)
Judicial Member