

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

(2)

O.A.NO. 481/90
T.A.X.NO.

DATE OF DECISION 16.10.1997

Shri M.D. Garg, Petitioner

Applicant-in-person. Advocate for the Petitioner [s]
Versus

Union of India & ors. Respondents

Mr. Akil Kureishi Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan, vice Chairman.

The Hon'ble Mr. P.C. Kannan, Judicial Member

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ? ~
- 2, To be referred to the Reporter or not ? ~
- 3, Whether their Lerdships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ? ~

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Shri M.D. Garg,
Manager Gr. I
Local Office,
Employees State Insurance Corp.,
Kalol, Dist: Mehsana.

Resi. Address:
713, Vidyadhar Nagar
Near Agrawal School
Jaipur-302003.

..... Applicant.

(Party-in-person)

versus

1. Union of India,
notice to be served through
Director General
Employees State Insurance Corp.,
Panchdeep Bhavan, Kotla Road
New Delhi.

2. Regional Director,
Gujarat Regional Office,
Employees State Insurance Corp.,
Ashram Road, Ahmedabad.

Respondents

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A.No. 481 OF 90

Date: 16.10.1997.

per: Hon'ble Mr. V. Ramakrishnan, Vice Chairman.

The applicant is prosecuting the O.A. in person. He has not been appearing before this Tribunal for long. At one time he informed that he had taken up the matter for transfer of the O.A. to Jaipur Bench by an application dated 27.7.94. We have received no further communication regarding this request and the follow up measures if any taken by him. As the applicant has not been appearing for more than two

years, the case has been adjourned from time to time. In view of the continued absence of the applicant and the O.A is pending for more than seven years, we proceed to dispose of the O.A on merits on the basis of materials available before us and also with the assistance received from Mr. Akil Kureshi, the learned Standing Counsel.

2. The applicant an employee of ESIC was holding the post of Manager Gr.I for some time by an order dated 14.5.90 and he was reverted within five months by another letter dated 1.10.90 which he has challenged. He had initially approached the Hon'ble Gujarat High Court which had ordered maintainence of status quo. Mr. Kureshi draws attention to the reply statement that by the time the order was received, the applicant had already stood reverted to the lower post of Manager.

3. In the pleadings, the applicant has taken the stand that the action of the respondents in reverting him from the post of Manager Gr.I to which he had got adhoc promotion while retaining his juniors at that level was arbitrary and discriminatory and is also in violation of the guidelines of the Government of India besides offending the Articles 14 and ~~31~~ 31 of the Constitution of India. The respondents have brought out that soon after the applicant was given adhoc promotion to the level of Manager Gr.I, disciplinary proceedings were initiated against him and he was served with a charge sheet for gross misconduct on 24.10.90. They took further action to revert him to his regular post of

Manager Gr.II by their order dated 1.10.90. This order states that the Director General reverts the applicant from the level of Manager Gr.I/Dy.Accounts Officer to the level of Inspector/Manager Gr.II. Even though this order does not spell out the reasons for the reversion, Mr. Kureishi informs us that this has been done pursuant to the Government instructions that when disciplinary proceedings are initiated against an employee holding the higher post on adhoc basis for a period of less than one year, he shall be reverted to the post held by him on regular basis when the proceedings were initiated against him. He refers in this connection to the Government of India's *below bulle 119 ccs cca1 bulle* instruction No.4 vide a DOPT O.M dated 30th April, 1983 a copy of which is enclosed to the reply statement of the respondents. The learned Standing Counsel further informs us that the ESIC has been following in the Government instructions/such matters.

4. It is the admitted position that the applicant was holding the post of Manager Gr.I on adhoc basis for about 5 months when he was reverted. It is also not denied that the disciplinary proceedings were initiated against him during this period. In the context of the Government orders in this regard which are stated to be followed by the ESIC, we find no infirmity in the action of the respondents in reverting him to the lower post held by him on a regular basis. The fact that some of his juniors would have been retained on adhoc basis in the higher

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post when the proceedings have been initiated against the applicant is not of any assistance to the applicant.

5. In the circumstances we find no merit in the present O.A. and dismiss the same. No costs.

DK

(P.C. Kannan)
Member (J)

DRK

(V.Ramakrishnan)
Vice Chairman

vtc.