

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

Date of decision : 14.6.2000

O.A.no. 172/92

Ms.R.Fernandes : Petitioner [s]

Mr.K.K.Shah : Advocate for the petitioner [s]

Versus

Union of India & Ors. : Respondent [s]

Mr.B.N.Doctor : Advocate for the Respondent [s]

CORAM :

THE HON'BLE MR. V.RAMAKRISHNAN ; VICE CHAIRMAN

THE HON'BLE MR. A.S.SANGHAVI ; MEMBER [J]

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 Lordships wish to see the fair copy of the judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

1. Ms.R.Fernandes
2. Mr.N.Raman Unni

o/o Joint Chief Controller of Imports and Export,
 Multi storeyed building, 11th floor,
 Laldarwaja,
 Ahmedabad.

Applicant

By Advocate Mr.K.K.Shah

Versus

1. Union of India, Through :

The Secretary to the Govt. of India,
 Ministry of Commerce,
 Central Secretariat,
 New Delhi.

2. The Chief Controller of Imports and Exports,
 Udyog bhavan, Maulana Azad Road,
 New Delhi.

3. The Jt. Controller of Imports and Exports,
 Multistoreyed building, 11th floor,
 Laldarwaja, Ahmedabad.

Respondents

By Advocate Mr.B.N.Doctor

ORAL ORDER
IN
O.A.NO.172/92

Dt.14/6/2000

Per Hon'ble Mr.V.Ramakrishnan Vice Chairman

We have heard Mr.Doctor for the respondents. The first applicant Ms.Fernandes is present before the court and she has made available copy of the orders issued by the department to Mr.Doctor and also to the court.

2. The applicants were Section Head in the Organization of Chief Controller of Imports and Exports and were given ad hoc promotion as Controller of Imports and Exports by the order dated 23.5.84. They have been working on this post continuously since then as various orders had extended the ad hoc promotion from time to time. An order dated 17.2.92 as at Annexure A/3 was issued under which they continued to officiate on ad hoc basis as Controller of Import and Export for a further period up to 31.3.92. This order is challenged by the applicants contending that their appointment should be taken on permanent basis to the post of Controller of Import and Export right from 1984 with effect from the date of their initial ad hoc appointment and they cannot be continued only on ad hoc basis.

3. The reliefs sought for in the present OA essentially are to get regularization at the level of Controller of Import and Export instead of being continued on ad hoc basis indefinitely. There is also a prayer that their date of regularization should be from the date on which they were initially appointed on ad hoc basis namely from 1984 /1986.

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4. The first applicant has now made available a copy of the order dated 2.11.94 which promotes a number of others along with her on regular basis to the level of Controller of Import and Export w.e.f. 2.11.94 She also says that she has since received the further promotion and is now serving as Assistant Director General of Foreign Trade . She has also made available another office order dated 19.12.96 under which the second applicant Shri Unni has also been promoted as Foreign Trade Development Officer[which is the re-designated post of the Controller of the Import and Export] w.e.f. 10.12.96 Both these orders are taken on record. In the light of the above development, the relief sought to regularize them at the level of Controller of Import and Export is granted by the department itself.

5. The department has regularized them w.e.f. 2.11.94 in respect of the first applicant and from December 1996 in respect of the second applicant. In the O.A. it is argued that the date of regularization should relate back right from the date of initial appointment on ad hoc basis and such ad hoc promotion should be treated as regular promotion. We find that the identical issue has been gone into by the Mumbai Bench of this Tribunal in O.A. 310/92 and 314/92 in the case of Mr.C.P.Patil and ors. Vs. Union of India & ors. and Shri G T Mane and ors. Vs. Union Of India where the relief sought for was also the same namely to

declare that the applicants should be deemed to have been appointed on permanent basis to the post of Controller of Imports and Exports with effect from their initial ad hoc appointment. The Tribunal had gone into this issue and held that the applicants were not entitled to the relief sought for. However it was noticed that there was a proposal to convert all the posts of Controller of Imports and Exports as promotion post through the promotion of the departmental candidates and till the decision is taken, and till the suitable persons were appointed, the Tribunal directed that the applicants therein should not be reverted to the lower posts. It is clear from this judgment that the Tribunal had held that ad hoc appointment in such a situation does not confer an automatic right for regular appointment from the date of initial ad hoc appointment. We also find that following the decision of the Mumbai bench, the Bangalore Bench had also taken the same view while disposing of the case of Shri T. Parthesarathy and ors. Vs. Union of India and ors. in O.A.NO 194/92 decided on 25.1.93. A copy of these judgments is taken on record. The present applicants were appointed on ad hoc basis and now they are promoted on regular basis w.e.f. 2.11.94 in respect of the first applicant and w.e.f. 19.12.96 in respect of the second applicant. The first applicant seems to have received the further promotion to the higher level of Assistant Director General of Foreign Trade. The applicants are found to be regularly appointed to the post of Controller of Import and Export w.e.f. 2.11.94 and 19.12.1996 respectively. The contention that their

appointments should be considered on permanent basis to the post of Controller of Import and Export with effect from their initial date of ad hoc appointment cannot be granted and this contention is rejected.

7. With the above observations, O.A. is disposed of with no order as to costs.

A.S.S.
[A.S.Sanghavi]
Member [J]

V.Ramakrishnan
[V.Ramakrishnan]
Vice Chairman

S.Solanki