

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO./517/92
~~E.A.NO.~~

DATE OF DECISION 9.12.1999

K.J.Jadeja Petitioner

Mr. Nikhil Kariel for
Mr. B.P.Tanna Advocate for the Petitioner [s]
Versus

Mr. M.S.Rao Respondent

Union of India and others Advocate for the Respondent [s]

CORAM

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

The Hon'ble Mr. P.C.Kannan, 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 ? ✓

K.J.Jadeja
HSK-I (Machinist)
Trg. Workshop
INS Valsura
Jamnagar.

Mr. N Nikhil Kariel for Applicant
Advocate: Mr. B.P.Tanna

versus

1. Union of India
Through the Secretary
Defence Department
New Delhi.
2. Admiral Superintendent
Naval Dockyard
Bombay 400 023.
3. The Commanding Officer
INS Valsura
Jamnagar.

Respondents-

Advocate: Mr. M.S. Rao-

ORAL ORDER

IN

Dated 9.12.1999

O.A./517 of 1992

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

We have heard Mr. Nikhil Kariel
for Mr. B.P.Tanna for the applicant and Mr. M.S.
Rao for the respondents.

2. The applicant in this O.A. has challenged
the order dated 10.12.1991 as at Annexure A-6
which states that he cannot be continued as
Senior Chargeman on ad hoc basis. He has sought
for a direction to the respondents to regularise
him as Senior Chargeman and that in any case he
should be continued on ad hoc basis as Senior
Chargeman.

✓

3. The learned counsel for the applicant submits that the applicant was appointed as Temporary Turner Grade-II in I.N.S. Valsura, Jamnagar in December 1966. The applicant was promoted as Temporary Tool Room Fitter Grade-I (Mech.) by order dated 16th August 1979 and subsequently as a Temporary Mechanic on 1.5.1982. He was given officiating promotion on ad hoc basis as Senior Chargeman (Machinist) from 2.11.84 to 31.3.85. This ad hoc appointment was extended from time to time and when the local authorities moved the higher authorities for regularisation or for renewal of ad hoc appointment the same was not agreed to by the competent authority as per the impugned order dated 10th December 1991 as at Annexure A-6 which inter alia mentions that no officia-ting appointment is to be given hence-forth from Industrial to Non-Industrial post as it changes the cadre. Even though the applicant has served on ad hoc basis for the number of years the department has taken the stand ~~that~~ to revert him to the level of Highly Skilled Machinist and the applicant has approached the Tribunal with the prayer as above.

4. The learned counsel for the applicant submits that the applicant had been working for as many as seven years as a Senior Chargeman and it is entirely arbitrary on the part of the department to have reverted him. He also brings out such ad hoc appointments were either continued or subsequently regularised at the higher level. In particular he draws attention to the letter dated 6th April 1985 as at Annexure A-5 which extends the ad hoc promotion in respect of some other persons including the applicant namely S/s. A.M.Mehta, A.M.Patel, who were holding higher post of Foreman and S/s. A.M.Trivedi and V.J. Nakhva who were holding post of Senior Chargeman (Machinist) and Sr. Chargeman (Power) respectively alongwith the applicant who was also holding the post at that level. He also draws attention to the letter dated 5th December 1988 which regularised many others but ~~exix~~ excludes the applicant. The counsel also submits that the applicant has worked as Sr.Chargeman and as such he should be regularised at that level.

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5. Mr. M.S. Rao for the respondents resists the O.A. He submits that the applicant had volunteered to join INS Valsura when he came to join vessel.

He submits that right of promotion to the applicant is normally in the Industrial line. Further the applicant is also eligible to be considered for promotion to the level of Senior Chargeman as per S.R.O. 291 of 1983. He draws attention to the reply statement particularly to para 3 which brings out that he was at Sr. No.34 in the feeder cadre of HSK-I. The volunteers from the feeder ~~cadre~~ post to be appointed as Sr.Chargeman are strictly on the basis of the panel drawn up by the D.P.C. However, the applicant was placed in the seniority list and he was at Sr.No.34 at the relevant time. A number of others were senior to him and in the circumstances it was not possible for the department to continue a junior person on ad hoc basis or to regularise him overlooking the claims of the seniors.

Mr. Rao says that merely because a person has held the job of officiating post for a number of years it does not automatically confer a right on him to be continued indefinitely in that post. The seniority and **other** relevant factors have to be kept in view. Mr. Rao asserts that no person who is junior to the applicant has been regularised overlooking the claims of the seniors. He contends that the persons who are regularised referred to by the applicant's counsel and also

in the letter dated 5th Decr. 1998 were all senior to the applicant.

Mr. Rao submits that the position has since undergone a change and the applicant is now at Sr.No.1 in the cadre. He also submits on the instructions of the department that D.P.C. has been convened and it has met and gone into the question of considering the applicant for his appointment on a regular basis to the level of Senior Chargeman and the D.P.C.'s recommendation is awaited.

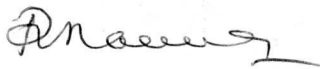
6. We have carefully considered the rival contentions. There is force in the submission of Mr. Rao that merely because a person had c-ontinued for a number of years on ad hoc basis, he cannot be taken to have acquired an automatic right for regularisation against higher post. However, we take note of the fact that the applicant has volunteered to join INS Valsura when there was a shortage of volunteers for such assignment. We also find from the records that the authorities under whom he had worked have all agreed with the decision to post him as Senior Chargeman. The fact remains that the applicant had continued even though on ad hoc basis for a number of years as Senior Chargeman.

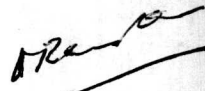
We record the statement of Mr. Rao that the applicant had since become due for the post of

Senior Chargeman and has been considered by the D.P.C. for the vacancy of Senior Chargeman. Keeping in view the fact that applicant had held the post as Senior Chargeman on ad hoc basis for a number of years and that his performance has been commended by his superior officers, we believe that there will be no problem in his being regularly appointed as Senior Chargeman. We direct the respondents to finalise the question of his promotion to the post after getting the recommendation of the D.P.C. and also to communicate the decision and to take further appropriate steps. We also make it clear that the fact that the applicant had filed O.A. and approached the Tribunal should not ~~in any~~ stand in ^{his} way ^{for} getting his rightful dues.

The above exercise should be completed within two months from the date of receipt of a copy of this order.

7. With the above directions the O.A. is finally disposed of with no orders as to costs.


(P.C. Kannan)
Member (J)


(V. Ramakrishnan)
Vice Chairman