

2
4 11

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

Original Application No.104 of 1987.

Date of decision : November 17,1989.

Rajendra Kumar Bajpai, son of C.L.Bajpai,
Junior Engineer, Malkangiri (Constn) Division,
Dandakaranya Project, Malkangiri 764048,
District- Koraput.

...

Applicant.

Versus

1. Union of India, represented by Secretary,
Department of Internal Security,
Rehabilitation Division, Jaigselmer House,
Mansingh Road, New Delhi-110011.

2. Chief Administrator,
Dandakaranya Project,
Koraput-764020, Orissa.

...

Respondents.

For the applicants :;; M/s.A.K.Mohapatra,
P.K.Mohapatra, Advocates.

For the respondents ... Mr.Tahali Dalai,
Additional Standing Counsel (Central)

C O R A M:

THE HON'BLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HON'BLE MR.N.SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
 2. To be referred to the Reporters or not ? NO
 3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.
-

J U D G M E N T

B.R.PATEL, VICE-CHAIRMAN,

The facts, in brief, are that the applicant was appointed as Section Officer under Dandakaranya Development Authority (DDA) on ad hoc basis for six months or till the post was filled up on regular basis. In pursuance of the order, the applicant joined the post on 26.5.1980. His service in the post was regularised vide order dated 15.2.1985 (Annexure-R.4) . The applicant has therefore, prayed that his previous ad hoc service should count towards his seniority in the rank of Section Officer (Junior Engineer) .

2. The respondents have maintained in their counter that the post was reserved for Scheduled Caste and it was dereserved due to non-availability of suitable scheduled caste candidates, only on 15.2.1985 when the services of the applicant were regularised and as such he is to count his seniority as Section Officer (Junior Engineer) only from 15.2.1985 and not earlier.

3. We have heard Mr. A.K. Mohapatra, learned counsel for the applicant and Mr. Tahali Dalai, learned Additional Standing Counsel (Central) and perused the papers. Admittedly, the applicant was appointed on temporary basis as Section Officer (Junior Engineer) and he joined on 26.5.1980 & his services were regularised on 15.2.1985. Admittedly, the ad hoc service of the applicant was followed without break by his regularisation in the post. This position is also clear from the averments in the counter as well as Annexure-R.4. We have decided a few cases on the principle that if ad hoc service is followed by regularisation without break the ad hoc service should count towards seniority in the grade. No reason has been advanced as to why this

Indhu

principle should not be followed in the present case.

Mr. Mohapatra has also brought to our notice a judgment reported in AIR 1986 SC 638 (Narender Chadha and others v. Union of India and others). He drew our attention particularly to paragraph 19 of the judgment which reads as follows :

" As observed in D.R. Nim v. Union of India, (1967) 2 SCR 325 : (AIR 1967 SC 1301) when an officer has worked for a long period as in this case for nearly fifteen to twenty years in a post and had never been reverted it cannot be held that the officer's continuous officiation was a mere temporary or local or stop gap arrangement even though the order of appointment may state so. In such circumstances the entire period of officiation has to be counted for seniority. "

(Emphasis is ours)

In the present case, the applicant has rendered about 5 years' continuous service on ad hoc basis and according to Mr. Mohapatra this service should count towards seniority. Mr. Mohapatra also has cited a judgment of the Delhi High Court in Civil Writ petition No. 748 of 1980 in the case of Jai Kishan etc. petitioners v. Municipal Corporation, Delhi etc. In that case the petitioners were appointed initially as Assistant Engineers (Civil) on ad hoc basis on 1.4.1969. Their regular appointment was on 24.10.1971. In point of facts this case is ^{more} similar to the case before us. The Delhi High Court in the case referred to above has held as follows :

" The question which has arisen in this case is whether the seniority is to be determined from the date of initial appointment or from the date of the confirmation. We have already by separate judgments accepted the view of the Division Bench in Ishwar Chander Sangar vs. D.E.S.U. LPA 110/69 and affirmed also the judgment in K.K. Khatia vs. M.C.D., C.W. 371/75 to the effect that the seniority has to date back to the date of initial appointment. Accordingly,

(Underlining is for emphasis)

the seniority of the petitioners has to be determined from the date of their initial appointment."

In this case there has been no break in the service of the petitioner from the date he was appointed on ad hoc basis till his service was regularised on 15.2.1985 and as such, we are of the view that the judgment of the High Court of Delhi referred to above squarely applies to the facts of the present case. Further, whether there was any ^{or} ~~senior~~ Section Officer ^{senior} to the applicant when he was appointed on ad hoc basis has not been brought to our notice. Accordingly, we direct that the ad hoc service rendered by the applicant from 26.5.1980 should count towards his seniority as Section Officer (Junior Engineer) under Dandakarana Development Authority, provided there was on the date of his ad hoc appointment no Section Officer (Junior ~~Engineer~~) senior to him in that cadre.

4. This application is accordingly disposed of leaving the parties to bear their own costs.

[Signature]
.....
Vice-Chairman

N. SENGUPTA, MEMBER (J)

I agree.



[Signature]
.....
Member (Judicial)

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
November 17, 1989/Saranggi.