

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.48 of 1988

Date of decision - 9th August, 1989.

K. Thrinadham, s/o Late K.S.Patnaik,
Upper Division Clerk, Office of the
Regional Labour Commissioner(Central),
Plot No.637, Sahidnagar, Bhubaneswar-7.

... Applicant.

Versus.

1. Secretary, Ministry of Labour,
New Delhi.
2. Chief Labour Commissioner(C),
New Delhi
3. Regional Labour Commissioner(C),
Bhubaneswar.

.... Respondents

For Applicant - In person.

For Respondents - Mr. Ganeswar Rath,
Sr. Standing Counsel(Central)
(Central).

C O R A M :

THE HONOURABLE MR. B.R. PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR. N. SEN GUPTA, MEMBER(JUDICIAL)

1. Whether reporters of local papers may be allowed
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. In this case the applicant has sought the following reliefs :

His seniority in the cadre of Upper Division Clerks (U.D.Cs) in the office of the Regional Labour Commissioner (Central), Bhubaneswar should be fixed taking into account his continuous ad hoc service as U.D.C. and to allow him to work as Office Superintendent in place of Sri P.L.Sahu.

2. Briefly stated, the facts of the case are that the applicant who joined the Central Government service as Lower Division Clerk was promoted to the rank of U.D.C. on 6.10.69 on ad hoc basis. He was, however, reverted to his substantive rank on 5.7.71 and was again promoted on adhoc basis to the rank of U.D.C. on 21.8.73. He was regularly promoted on the recommendation of the Departmental Promotion Committee duly constituted on 7.3.77. The applicant's claim is that his ad hoc service from 21.8.73 till 7.3.77 was continuous there being no break and this service should count towards his seniority in the rank of U.D.C.

3. The respondents have maintained in their counter that the applicant is not entitled to the relief he has sought because he was specifically informed at the time of giving him ad hoc appointment that his ad hoc appointment as U.D.C. will not confer on him any benefit so far as his seniority and other service conditions are concerned.



4. We have heard the applicant in person and Mr. Ganeswar Rath, learned Senior Standing Counsel for the Central Government. The applicant has brought to our notice a judgment of the Central Administrative Tribunal, Madras Bench in the case of Shanmugam and another v. Union of India and others reported in II(1987)ATLT 331. In paragraph-9 of their judgment, the Madras Bench observed as follows :

" The above-mentioned reference has been invited by the Delhi Bench of this Tribunal in ATR 1986(2) CAT 346 - S.C.Jain v. Union of India and others, while allowing the application. The concept of ad hoc appointment followed without a break by regular appointment, reckoning for seniority from the very beginning in that post in which the person was appointed initially on ad hoc basis, has now been well recognised as a result of pronouncements by the Supreme Court in cases like those of Narendra Chadda v. Union of India and others. In view of these, we have no hesitation to hold that once the ad hoc service with effect from 1.3.1977 as Craft Instructor in the case of the 3rd respondent was regularised with effect from the initial date of ad hoc appointment, he has a right to rank senior to the petitioner herein whose date of regular appointment was only in July, 1978."

The facts of the case before the Madras Bench were more or less the same as the facts before us. Here also the applicant was appointed on ad hoc basis covering two spells - one from 6.10.69 to 5.7.71 and the other from 21.8.73 to 7.3.77. So far as the first spell of ad hoc service is concerned, that will not count towards the seniority inasmuch as it was not followed by a regular appointment to that cadre. The applicant also does not press for counting that spell of

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ad hoc service towards seniority. His sole prayer is that the ad hoc service from 21.8.73 to 7.3.77 which was followed by a regular appointment to the cadre of U.D.Cs. should count towards his seniority in the cadre of U.D.Cs. Mr. G. Rath has reiterated the stand the respondents have taken in their counter. We have decided a few cases of this nature, namely, T.A.132/86, T.A.417/86 to T.A.444/86 and we have held that the continuous ad hoc service followed by a regular appointment should count towards seniority. We find no reason to differ from the views we have taken earlier. Our earlier view also gets support from the judgment of the Madras Bench referred to above. In view of this, we hereby direct that the ad hoc service of the applicant from 21.8.73 to 7.3.77 should be taken into account while re-fixing the seniority in the cadre of U.D.Cs. After having re-fixed his seniority in the light of our observation above, whatever consequential benefits would accrue to the applicant should be given to him in the matter of promotion etc.. We cannot straight away say that he should be allowed to work as Office Superintendent in place of Sri P.L.Sahu because suitability of the applicant has to be considered by the competent authority following the prescribed procedure and the applicant be given promotion, if he is found suitable.

hsh

5. Thus the application is partly allowed, leaving the parties to bear their own costs.



[Signature] 9.8.89

 VICE-CHAIRMAN.

N. SEN GUPTA, MEMBER (JUDICIAL) .

I agree.

[Signature] 9.8.89

 MEMBER (JUDICIAL) .

Central Administrative Tribunal,
 Cuttack Bench, Cuttack,
 The 9th August, 1989/Jena, SPA.