

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

ORDER DATED 25-4-2001.

Learned counsel for the Applicant Mr. D. N. Mishra, reports no instruction and submits that his client has taken away the file. No alternative arrangement has been made by the applicant who is also absent on call. In view of this, further time can not be allowed. We have, therefore, heard Shri S. B. Jena, learned Additional Standing Counsel for the Respondents and have also perused the records. Private Respondent No. 5 was issued with notice but he did not appear or file counter.

Departmental Respondents have filed counter opposing the prayer of applicant. No rejoinder has been filed. For the purpose of considering this petition it is not necessary to go into too many facts of this case. In this Original Application the applicant has prayed for quashing the order dated 21.7.1998 at Annexure-8 reverting the applicant from the post of Adhoc Gr.II Stenographer to the post of Grade.III Stenographer, and transferring him from AIR Bhawanipatna to AIR Cuttack. The second prayer is for a direction to the Respondents to continue the applicant in the post of Stenographer Grade II at Bhawanipatna when his juniors have been promoted to the said post on adhoc basis. According to the applicant he originally joined in Govt. service under DNK Project as L.D.C. and was promoted to the post of Stenographer Gr.III on 1.11.1970. On DNK Project being closed, his services were placed at the disposal of surplus cell of the Ministry of Home Affairs in February, 1983. He was redeployed in All India Radio, Jeypore on 25.4.83 as Stenographer Gr.III and continued at Jeypore till

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20.2.1995 as Stenographer Grade III. He was promoted on Ad-hoc basis as Stenographer Grade II in order dated 7.10.1994 and 12.12.1994 at Annexures-A/1 and A/2. Applicant has stated that after joining as Grade II stenographer at Bhawanipatna on 4.3.1995, he continued as Stenographer Grade II for last three and half years and also enjoyed the scale of pay for Grade II Stenographer. In the Departmental promotion Committee meeting held for regular promotion to the rank of Grade II Stenographer, his case was not considered and applicant's case was not recommended by the Departmental promotion Committee. On the regular appointment made to the post of Stenographer Grade II, the applicant was reverted from his Adhoc post of Stenographer Grade II to his substantive post of Stenographer Grade III in the impugned order. In the context of the above, the applicant has come up with the prayer referred to earlier.

It is not necessary to refer to the averments made by the Respondents in their counter because these will be taken into account while considering the submission made by Shri Jena, learned ASC for the Respondents. So the admitted position is that the applicant's appointment to the post of Stenographer Grade-II was on adhoc basis. Law is well settled that a person appointed to a post on adhoc basis has not right to continue against the post. There is no illegality if he is replaced by a regularly appointed Grade II stenographer and if in consequence he is reverted to his substantive post of Gr.III stenographer. Applicant has stated that while he has been reverted from his adhoc post of Grade II Stenographer, his juniors

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Copy of order may be given to both the counsels.

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have been promoted on regular basis to Grade I Stenographer and some of his juniors are still continuing as Grade II Stenographer on adhoc basis. Respondents have pointed out that the applicant belongs to general category and none of his juniors in the general category has been promoted to the post of Stenographer Grade II either on regular basis or has been allowed to continue as Stenographer Grade II on adhoc basis. Respondents have pointed out that persons belonging to general category who have been given regular promotion ranges ~~rough between~~ Sl.No.1 to 13 and 16 of the seniority list enclosed by the applicant himself. In this seniority list applicant's position has been shown against Sl.No.108. In view of this the contention that while ~~has~~ he has been reverted his juniors have been given regular appointment is held to be without any merit and is rejected. Applicant has also not mentioned the name of his juniors who have been allowed to continue on adhoc basis as Grade II Stenographer. Applicant has no doubt come from the post of Stenographer Grade III under the DNK Project but he has come to AIR by way of redeployment and law is well settled by several cases of the Hon'ble Supreme Court that such redeployed staff can not count their previous service for seniority in the post where they have been redeployed.

In view of the above, we hold that the original application is without any merit and the same is rejected. No costs.

(G. NARASIMHAM)
MEMBER (JUDICIAL)

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(SOMNATH SOM)
VICE CHAIRMAN
16/5/2001