

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

OA/878/1996

14-8-2001

Present : Hon'ble Mr.D. Purkayastha, Member (J)
Hon'ble Mr.V.K.Majotra, Member(A)

Maniklal Bhowmick

-Vs-

Information and Broadcasting

For the applicant : Mr.Samir Ghosh

For the respondent : Ms.U. Sanyal

ORDER

Mr.V.K.Majotra, Member(A) :

The applicant has challenged non-regularisation of his services on the post of Lower Division Clerk from the year 1979 since when he was discharging his duties and functioned as LDC on adhoc basis continuously and uninterrupted without any break. The applicant joined as Group 'D' employee in the 'Songs and Drama Division' under the Information and Broadcasting Ministry on 14-2-69 on regular basis. He acquired the requisite qualification for appointment in Group 'C' post on passing the School Final examination in 1970. He was promoted to official as LDC on adhoc basis on 23-10-74 (Annexure A). However, he was reverted from the post of LDC to the post of Group D on 10-7-75 with retrospective effect from 24-6-75 (Annexure B). He was again promoted to the post of LDC on adhoc basis on 1-3-79 as per Annexure 'C' whereafter he claims that he has been functioning continuously and regularly. The applicant stated to have submitted several representations for his regularisation on the post of LDC which have not yielded any tangible result till now. The applicant has sought direction to the respondents to give the benefit of seniority to the applicant after regularisation in the post of LDC since 1979 with consequential benefits including promotional benefits.

2. In their counter reply, the respondents have stated that recruitment of all Group 'C' non-technical post in the Ministries/Department has come within the purview of SSC with effect from 1-7-76. Whereas SSC has conducted four Special Qualifying Examination for adhoc LDC/Stenographers examination, it has been contended by the respondent that Group D employees working on adhoc basis as LDC were not eligible for appearing in the aforesaid examination. The Department of Personnel and Training (DP&T) also did not agree to grant the benefit of judgement ~~of the Bangalore Bench of CAT~~ of the Bangalore Centre passed by the Bangalore Bench of CAT on 25-5-93 (OA 384 of 1992) K Siddaiah -Vs- U.O.I. & Others in which in a similar case the applicant therein was held to have become entitled for regularisation in the post of LDC and the respondents were directed to consider him as such and give all consequential benefits from such declaration and the applicant's position as LDC was directed to be regularised with effect from 7-1-81, i.e. ^{date} effective from which he was working as LDC. The respondents have stated that benefit of the direction of the CAT in that individual case cannot be extended to other employees in the normal course unless the general policy of the Government has been strucked down.

3. We have heard the learned counsel of both sides and considered the materials on record.

4. While considering the claim of the applicant for regularisation on the post of LDC with effect from 1-3-79 when he was promoted on that post on adhoc basis, the DOPT expressed the opinion that regularisation of LDC/Stenographers is possible only on the basis of examination to be held by SSC, on the otherhand they have stated that the Group D promoted on adhoc basis were not eligible for the aforestated examination. Whereas people recruited through Employment Exchange on adhoc

basis as LDC/Stenographer are given opportunity to appear in the examination held by SSC, The Group 'D' employees otherwise eligible for the post of LDC and promoted on adhoc basis are being denied the opportunity to appear in the examination. This is a blatant denial of principles of natural justice to such an employee. The respondents have also denied extension of benefit of the judgement in the matter of K. Siddaiah which is an individual case. In 2000(1) SLJ 223 *Ajay K. Dalav* V Govt. of Goa and others it has been held that similarly placed persons cannot be treated differently. We are further of the view that the respondents would be well advised to extend the benefit of the Court/Tribunal's order ^{which has been} become final to all employees similarly placed and not driven each one of them to seek redressal of their grievances before the Tribunal/Court. Whereas in the case of Shri K. Siddaiah he had worked as LDC on adhoc basis for a period of 12 years only and accordingly the benefit of regularisation was given through CAT, In the present case the applicant ~~has~~ ^{has been} worked for more than 21 years as LDC on adhoc basis. The present case is much more deserving than the case of K. Siddaiah.

5. Having regard to the reasons recorded and discussions made above, we direct the respondents to treat the applicant ^{having} become entitled for regularisation in the post of LDC with effect from 1-3-79. We direct that the applicant should be given all concomitant benefits flowing from such declaration. His position as LDC will stand regularised with effect from 1-3-79, the date on which he was posted to work as LDC.

6. For the reasons mentioned above, the OA succeeds and thus allowed. No costs.

V.K. Majotra
(V.K. Majotra)
Member(A) 14.8.2001

D. Purkayastha
(D. Purkayastha)
Member(J)