

In the Central Administrative Tribunal
Jodhpur Bench, Jodhpur

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Date of order : 25.7.2000

O.A.No.46/1996

Bajrang Bihari Bhati S/o Sh.Megha Ram Bhati, aged about 36 years
R/o Paota 'C' Road, Jatawas Gali, Near Hanuman Temple, Jodhpur at
present employed on the post of Vocational Instructor (MMV).

..... Applicant.

Vs.

1. Union of India through its Secretary to Government of India, Ministry of Labour (Directorate General of employment and Training) New Delhi.
2. The Regional Director, Government of India, Ministry of Labour, Regional Directorate of Apprentiship Training, Udyog Nagar, Kanpur.
3. The Principal, Model Industrial Training Institute, I.T.I. Campus, ~~Jodhpur~~ Jodhpur.
4. Sh.T.K.Bhattacharya, Vocational Instructor (Fitter).
5. Sh.K.N.Bhargawa, V I (Elect).
- Sh.Dharam Pal, Vocational Instructor (MMV)
- Sh.Vippin Kumar, Vocational Instructor (MMV),

All respondents 4 to 7 are employed in the office of Model Industrial Training Institute, ITI, Campus, Jodhpur

..... Respondents.

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CORAM :

Hon'ble Mr.Justice B.S.Raikote, Vice Chairman
Hon'ble Mr.Gopal Singh, Administrative Member

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Mr.J.K.Kaushik, Counsel for the applicant.
Mr.Vineet Mathur, Counsel for the official respondents.
Mr.S.K.Malik, Consel for the respondents 4 to 7.

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PER HON'BLE MR.JUSTICE B.S.RAIKOTE, VICE CHAIRMAN :

This Application has been filed praying for quashing of order Annex.A/2 dated 17.7.95 and directing the official respondents to place the applicant over and above the respondents 4 to 7 and accordingly the seniority list vide Annex.A/1

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dated 10.3.95 may be directed to be modified.

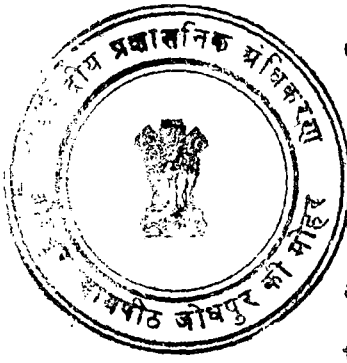
2. The applicant contends that he was appointed as Vocational Instructor on ad hoc basis w.e.f. 7.1.83 whereas the private respondents were appointed as Vocational Instructor subsequent to the date of his appointment. He submitted that the respondent No.4, Sh.T.K.Bhattacharya, was appointed w.e.f. 26.10.83, respondent No.5 Sh.K.N.Bhargava, was appointed w.e.f. 12.11.83, respondent No.6 Sh.Dharam Pal was appointed w.e.f. 16.12.83 and Shri Vipin Kumar was appointed w.e.f. 12.1.84 respectively. They were all appointed on ad hoc basis like the applicant. Later on, on the basis of the DPC proceedings, the applicant and the respondents were promoted on regular basis. But, on the basis of initial appointment on ad hoc basis on the post of Vocational Instructor, the applicant should be placed over and above the private respondents 4 to 7. Therefore, the seniority list prepared vide Annex.A/1 and the endorsement issued by the respondents vide Annex.A/2, by which the applicant is placed below Shri Vipin Kumar, are illegal. The learned counsel for the applicant submitted that on the basis of their respective ad hoc appointments, the applicant would be senior to the private respondents 4 to 7, therefore, he should be placed over and above these private respondents. Hence, Annexes. A/1 and A/2, placing him below Shri Vipin Kumar, is illegal and the same is liable to be quashed. By filing counter the official respondents have denied the case of the applicant. They have stated that as on the date, the applicant was appointed, i.e. 7.1.83, he was not having the requisite experience of five years required for the post of Vocational Instructor, whereas the respondents No. 4 to 7 had requisite experience of five years. Therefore, the Departmental Promotion Committee, had vide Annex.A/4 dated 10.8.85, placed the applicant below Shri Vipin Kumar, and



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seniority list has been prepared on the basis of Annex.A/4. They have also stated that as per the Recruitment Rules, the requisite experience for appointment as Vocational Instructor, is not less than five years and the applicant had completed five years as on the date of his regular promotion vide Annex. A/4 but not as on the date of his ad hoc appointment as Vocational Instructor. Hence, while preparing the panel, the Departmental Promotion Committee having due regard to the experience required for the post of Vocational Instructor, placed the names of the applicant and the private respondents in the order of seniority on the basis of fulfilment of the requisite qualification, therefore, the applicant cannot challenge the orders Annex. A/1 and A/2 and accordingly, the Original Application is liable to be dismissed.

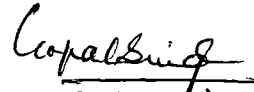


3. From the reading of the pleadings of both the parties as well as from the arguments, we find that certain things are admitted. It is admitted that both, the applicant as well as the private respondents 4 to 7, were appointed on ad hoc basis On the basis of the Chart at page 37 along with reply furnished vide Annex R/1, regarding the experience and other details in respect of applicant and the private respondents 4 to 7, it is clear that applicant had four years experience and the private respondents 4 to 7 had experience of more than five years, as on the date of their respective ad hoc appointment as Vocational Instructors. It is not also in dispute that the rules provide for five years experience for being appointed as Vocational Instructor. If that is so, as on the date of his appointment on ad hoc basis as Vocational Instructor, the applicant did not fulfil the qualification of five years experience whereas respondents 4 to 7 had fulfilled that requisite qualification. Therefore, in the panel prepared by the DPC vide Annex.A/4, the applicant was placed at Sl.No.5 and

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private respondents 4 to 7 were placed over and above him. This position has been incorporated in the seniority list of Vocational Instructors vide Annexs. A/1 and A/2. If that is so, we do not find any error in these proceedings vide Annexs. A/1 and A/2. The rank assigned to the applicant has not been disputed by the applicant on any other ground, therefore, we find that there are no merits in this application. Accordingly, we pass the order as under :-

The Application is dismissed but in the circumstances without any order as to costs.


(GOPAL SINGH)
Adm. Member


(B.S. RAIKOTE)
Vice Chairman



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