

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A. No. 77/93

Monday, this the 17th day of January 1994

SHRI N. DHARMADAN, MEMBER (J)  
SHRI S.KASIPANDIAN, MEMBER(A)

K. Krishnan,  
Offset Machineman,  
Govt. of India Press,  
Koratty, Thrissur. .... Applicant

By Advocate Shri C.T.Ravikumar.

V/s

1. Union of India, rep. by the  
Secretary, Min. of urban  
Development, New Delhi.

2. Director of Printing,  
Directorate of Printing,  
'B' Wing, Nirman Bhavan,  
New Delhi-11.

3. The Manager,  
Govt. of India Press,  
Koratty, Thrissur. .... Respondents

By Advocate Shri K.Karthikeya Panicker, ACGSC.

ORDER

N. DHARMADAN

The applicant who is working as Machineman in the Government of India Press, koratty is aggrieved by the denial of regularisation from the date of ad hoc appointment.

2. The applicant was originally working in the Letter Press which was later converted into Offset Press as a step towards modernisation. Even though the applicant was surplus under the aforesaid circumstance, he was appointed on ad-hoc basis as per Annexure-A1 order dated 31.1.1984. The Recruitment Rules for the post were notified in December, 1985. They were amended subsequently in the year 1990. In the light of the amended Recruitment Rules, the applicant was given regularisation w.e.f. 31.8.90 as per

Annexure-A2 proceedings. Since the applicant's prior ad-hoc services were not taken into consideration for grant of service benefits, the applicant filed his representations which were disposed of by Annexures-A4 and A5 proceedings.

3. The only question to be examined, on the facts and circumstances of this case, is as to whether the regularisation order passed in 1990, under the Recruitment Rules, is valid since his ad-hoc and continuous service from the date of ad-hoc appointment was not taken into account denying all eligible service benefits as claimed by the applicant, in accordance with the decisions of the Supreme Court on the subject.

4. In a similar case, this Tribunal considered the issue, following the decision of the Supreme Court in Direct Recruit Class II Engineering Officers' Association vs. State of Maharashtra, AIR 1990 SC 1607, in the decision reported in V.V.Abdul Rasheed vs. The Administrator, U.T. of Lakshadweep, OA 101/90, SLJ 1991 (3) CAT 90, and granted the relief. We have gone through the decision. The facts in that case are more or less similar and we follow that decision. The relevant portion of the judgment is extracted below:-

"The above decision is supported by the ruling of the Supreme Court in Direct Recruit Class-II Engineering Officers' Association and others vs. State of Maharashtra and others, AIR 1990 SC 1607, in which one of the findings was as follows:-

"(B) If the initial appointment is not made by following the procedure laid down by the rules but the appointee continues in the post uninterruptedly till the regularisation of his service in accordance with the rules, the period of officiating service will be counted."

Since in the instant case before us the initial appointment was made before the rules were framed and the applicant was regularised without any interruption in accordance with the Recruitment Rules from a later date it stands even on a firmer footing than the case contemplated in the aforesaid ruling of the Supreme Court where the initial appointment was made without following the procedure already laid down by the Rules. The applicant's initial adhoc appointment with

effect from 1984 when he was fully qualified under the Recruitment Rules later promulgated, cannot be considered to be fortuitous or a stopgap arrangement in the background of the case as discussed above. Accordingly we have no hesitation in declaring that the adhoc service of the applicant from 5.12.84 to 12.11.87 when he was regularly appointed will count for seniority in the grade of Assistant Manager (Technical) and accordingly also as qualifying service for purposes of promotion to the next higher grade considering also the fact that during this period he was drawing the regular pay scale of the Assistant Manager, discharging the duties of the Assistant manager and drawing increments also in the scale of Assistant Manager."

5. The learned counsel for respondents tried to distinguish the facts and submitted that the applicant was given adhoc appointment only to avoid retrenchment at the time when the Letter Press was converted into Offset Press. The applicant was not eligible to get regularisation as claimed by him in the original application. According to him, the case is distinguishable.

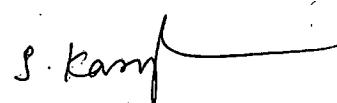
6. On a careful perusal of the facts in both the cases, we are satisfied that there is no difference and there is no substance in the submission made by the learned counsel for the respondents. The decision cited by the applicant applies to the facts of this case.

7. In this view of the matter, we see considerable force in the submission made by the learned counsel for the applicant. The adhoc appointment of the applicant w.e.f. 30.1.84 was continuous and followed by regular appointment by the subsequent order dated 31.8.90. This is clear from the impugned order. In the light of the above decision and the decision of the Supreme Court referred to therein the applicant is entitled for regularisation from the original date of adhoc appointment. It is also stated in the reply that the appointment of the applicant as Offset Machineman Grade-I along with other adhoc employees w.e.f. 31.8.90 was made according to the Recruitment Rules by formally transferring them to the post of Offset Machineman.

8. In the light of the aforesaid discussions we are of the view that the original application is only to be allowed. Accordingly, we set aside the impugned orders to the extent they deny the applicant regularisation with effect from the initial adhoc appointment, with all consequential benefits.

9. The application is allowed as above.

10. There shall be no order as to costs.



( S.KASIPANDIAN )  
MEMBER(A)



( N.DHARMADAN )  
MEMBER(J)

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