

Central Administrative Tribunal

Ernakulam Bench

Dated Thursday the 30th day of November 1989

Present:

Hon'ble Shri N.V. Krishnan, Administrative Member
and

Hon'ble Shri N. Dharmadan, Judicial Member

Original Application No. 181/89

V.A. Shanmughanthe applicant

V.

Union of India represented by
the Secretary, Ministry of Home
Affairs, New Delhithe 1st respondent

The Administrator, U.T. of Lakshadweep
Kavaratti.the 2nd respondent

The Collector-cum-Development
Commissioner, U.T. of Lakshadweep
Kavarattithe 3rd respondent

M/s. K.S. Rajamony and M. Lalitha Nair counsels
appeared on behalf of the applicant

Mr. P.V. Madhavan Nambiar, Senior Central Government
Standing Counsel appeared on behalf of the respondents

Judgment

Shri N. Dharmadan, Judicial Member

The applicant, in this Original Application,
filed under section 19 of the Administrative Tribunals
Act 1985 raises the grievance that his appointment as
an ad hoc Stenographer made by the third respondent
on 31.3.1986 has not been regularised so far in spite

of repeated requests. Hence he prays for a direction to the respondents to regularise the service and not to terminate the services of the applicant.

2. The applicant was appointed as Stenographer-III by the third respondent by the order dated 31.3.1986 - Annexure.A.1 - on ad hoc basis with effect from 5.5.1986 in the office of the Registrar of Cooperative Societies, Kavaratti in the existing vacancy. According to the applicant five vacancies of stenographers arose after the applicant was appointed but the service of the applicant was not regularised and posted him in any of the posts thus arose. All the five vacancies, according to the applicant were filled up by resorting direct recruitment by the respondents ignoring the preferential claim of the applicant. Annexures A-3 and A-4 are the appointments orders issued to three persons in the same post of Stenographer-III after the applicant joined the service. Aggrieved by the non-regularisation of services of the applicant he xxx approached this Tribunal with the prayer to issue directions to the respondents to regularise the services of the applicant.

: 3 :

3. The respondents 1 to 3 have filed counter affidavit denying all the allegations. The learned Central Government Standing Counsel relying on the decision taken in the meeting of the Home Minister's Advisory Committee held in December 1973 referred to Exhibit R.2, a communication issued in connection with the regularisation of one Kumari Omana Varghese, and xx contended that the persons from the mainland are not entitled to regularisation and this is a policy decision of the Government. It is further submitted that the ad hoc appointment of the applicant expired on 4.5.1988 and steps are being taken to notify the vacancy and make selection from local candidates.

The counsel admitted that others had been regularised during earlier occasions when no local qualified persons were available for appointment in the Island.

4. The respondents admitted the fact that the applicant is fully qualified for the post of Stenographer and eligible to be absorbed on regular basis under the existing Recruitment Rules; but Exhibit R.2 and R.3

letters disclosing the policy of absorbing local candidates, really stand in their way. We are not inclined to accept the contentions of the learned Central Government Counsel. We have, today elaborately considered the identical contentions in OAK 268/88; relevant portion of the judgment reads as follows:


"Under these circumstances we feel that the Government of India cannot decline the regularisation to the applicants. In a matter more or less similar, the Punjab and Haryana High Court in Joginder Singh V. State of Punjab and others, 1981(2) SLR 792 held that the Government cannot decline the regularisation of an employee, who was originally appointed on ad hoc basis in a post after fulfilling all the conditions prescribed by an executive instruction for making such an appointment..."

5. We are inclined to follow our decision ^{the} in/above case in this case also and allow the application with the same directions. Accordingly, we allow the application and direct the respondents to regularise the service of the applicant in the post in which he is working, if he is otherwise eligible for regularisation notwithstanding Exhibit R.2 and R.3.


: 5 :

This shall be done within a period of four months
from the date of receipt of the copy of the judgment.

There will be no order as to costs.


(N. Dharmadan)
Judicial Member

30.11.89.


(N.V. Krishnan)
Administrative Member

30.11.1989

ganga.