

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 262
T. A. No. 1990

DATE OF DECISION 12-2-92

K. Raman _____ Applicant (s)

M/s Alexander Skaria & _____ Advocate for the Applicant (s)
M.J. Nelsan

Versus

Director of Light Houses & _____ Respondent (s)
Light Ships, Cochin

Mr. V. Krishnakumar, ACGSC _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N.V. Krishnan, Member (Administrative)

The Hon'ble Mr. N. Dharmadan, Member (Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(N.V. Krishnan, AM)

The applicant is aggrieved by the order dated 26.3.90 by the Director, Light Houses & Light Ships, by which the applicant was informed that his adhoc service as LDC which was last continued from 2nd March 1990 to 30th March 1990 by the Annexure-3. order on the conditions laid down in the first engagement dated 15th May, 1989 will be terminated. The applicant contends that there is no reason why his services should be terminated as his service has been entirely satisfactory and he has been appointed after proper selection by the respondents. He also submits that the post of LDC is still available. In the circumstances, the applicant has sought a direction to quash the impugned Annexure-4 order and to direct the respondent to retain/reinstate the applicant in service.

2. In their reply the respondents have submitted that a post of Divisional Accountant under the first respondent fell vacant which was filled up by adhoc promotion of one N.P.Pillai who was then working as UDC. In the vacancy of UDC thus created on adhoc basis, the seniormost LDC was promoted on an adhoc basis. Therefore, a temporary vacancy of LDC arose in the respondent's office which he was permitted to fill up through the Employment Exchange. It is in pursuance of this that the applicant was sponsored by the Employment Exchange. He was selected and appointed purely on an adhoc and temporary basis from 16.5.89 on the understanding that his service can be terminated at any time without any notice. The applicant fully understood this condition attached to his appointment as is made clear by the undertaking given by him when he joined the post on 16.5.89 vide Annexure-R1. In that the applicant states that he accepts the appointment containing the following condition

"Appointment is purely on adhoc basis and does not confer any rights or claim whatsoever against the short term or regular vacancy of LDC that may arise in this office in future, and no representation in this regard will be submitted."

3. Subsequently, the post of Divisional Accountant to which N.P.Pillai, UDC was appointed on adhoc basis was ordered to be filled up on a regular basis by transfer of an eligible person, Smt. C.N.Lalitha. When that order was issued, it was necessary to reverse all the steps taken earlier and accordingly Shri N.P.Pillai was to be reverted as UDC and the seniormost LDC who was working as UDC on adhoc basis was to be reverted to his parent post. It is in that connection that the impugned order was issued as the vacancy to which the applicant was appointed would now cease to exist.

4. We have heard the parties and perused the records. It is quite clear that the applicant was appointed on a purely adhoc and temporary basis in a vacancy which arose due to the operation of a chain of promotions from UDC to Divisional Accountant and from LDC to UDC. When that chain of promotion has to be reversed due to the regular appointment of a Divisional Accountant, it becomes necessary to reverse all the adhoc promotions made and, in the case of the applicant, to terminate his adhoc appointment as LDC. In the circumstance, we cannot find any fault with the respondents in having issued the Annexure-4 order.

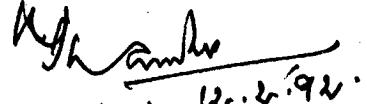
5. However, in the OA filed by N.P.Pillai, UDC (OA 96/90) who has been promoted as Divisional Accountant on adhoc basis, the following directions have been given to the respondents and his reversion as UDC has been stayed temporarily by the issue of the following directions:

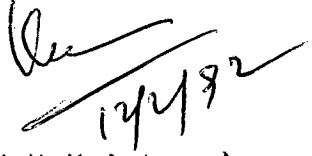
"(a) The applicant is directed to give to the 3rd respondent a representation addressed to the 1st respondent through proper channel, within 15 days from the date of receipt of this judgement praying for his continuance at Cochin on the grounds raised in para 7.

(b) In case such a representation is received it shall be sent to the first respondent who is directed to consider it sympathetically and dispose it of in accordance with law within two months of its receipt by him. Until such an order is passed the respondents 1 to 4 are directed not to give effect to the Ann.A4 order of appointment of Respondent-4 as Divisional Accountant, if it has not been given effect to till today and the Ann.4 order will abide by the final decision taken."

Consequently, the termination of the applicant also from the post of LDC can be kept in abeyance. In the circumstance, we are of the view that this application should be disposed of by connecting it to the decision rendered in OA 96/90. Accordingly, we dispose of this application with a declaration that the applicant is entitled to continue as adhoc temporary LDC as long as Shri N.P.Pillai is not reverted

from the post of Divisional Accountant held by him in an adhoc basis, provided that he can be replaced at any time by the appointment of a person selected regularly by the Staff Selection Commission for appointment as LDC and in the circumstances, we quash the impugned Ann.A4 order.


(N.Dharmadan)
Member (Judicial)


(N.V.Krishnan)
Member (Administrative)