

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No.274/2003

This, the 10th day of January 2008

Hon'ble Mr. Shankar Raju, Member (J)

Hon'ble Mr. J.P. Shukla, Member (A)

Manju Sharma aged about 29 years d/o Sri J.N.Sharma R/o 554
Kha/46 E, Vivheshwarnagar, Alambagh, Lucknow.

Applicant.

By Advocate: Shri A.Moin

Versus

1. Union of India, through Secretary, Ministry of Labour, New Delhi.
2. Director, Ministry of Labour, Shram Shakti Bhawan, Rafi Marg, New Delhi.
3. Presiding Officer, Central Govt. Industrial Tribunal, cum Labour Court, Aliganj, Lucknow.

Respondents.

By Advocate: Shri K.K.Shukla

Order (Oral)

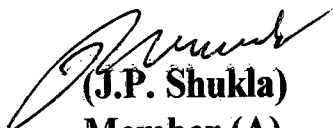
By Hon'ble Mr. Shankar Raju, Member (J)


Applicant who was appointed on adhoc basis as a LDC in CGIT was regularized by the Presiding Officer, who has been designated as Head of Department. However, the mode for such recruitment is through SCC which when not followed, the respondents dispensed with the services of the applicant by canceling the appointment.

2. Learned counsel of the applicant would contend that the applicant's regularization is as per the recruitment rules on deemed exercise of relaxation and for which learned counsel has relied upon the decision of the Apex Court in *J.C. Yadav Vs. State of Haryana* (1990) 12 ATJ 745, wherein it is held that Govt. has power to relax the requirement of the rules which does not restrict exercise in individual cases also.

3. On careful consideration of rival contention of the parties as the applicant by a strength of interim order passed by the Tribunal has continued, though the

contention put forth that on cancellation, principles of natural justice would apply, would be a misconceived argument, as held by the Apex Court in *State of Manipur and others Vs. Y. Token Singh and others* (2007) 5 SCC 65 that any faulty appointment when cancelled it, would not attract principles of natural justice. However, in the present case, though one has no indefeasible right on being selected to be appointed on regular basis, yet the equity demands that applicant, who was appointed in 1999 on regular basis on deemed exercise of power of relaxation by the competent authority, his claim would be considered for regularization, by a speaking order to be passed within a period of three months from the date of receipt of this order. Till then, interim order is made absolute. No costs.


(J.P. Shukla)
Member (A)


(Shankar Raju)
Member (J)

HLS/