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CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH, LUCKNOW

O.A. No. 76/90

A.K. Nigam

Applicant

versus

Superintendent of Police,
C.B.I., Lucknow and another

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K.Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed as Lower Division Clerk in the office of Central Bureau of Investigation Special Police Establishment, (Office of Superintendent of Police), Lucknow in the year 1985. Initially he was appointed on 29.1.85 for a period of three months, with breaks he was given appointment and again after termination of his services he was appointed as L.D.C. on 8.12.89 for a period of 90 days i.e. upto 8.3.90. He submitted representation on 10.8.89 requesting that he may be absorbed permanently and ultimately he approached this Tribunal with the prayer that he may be treated as regular D.D.C. with continuity of service without any break and the technical breaks be declared as illegal, void and ineffective and thus he may be treated to be a regular employee. The grounds of attack taken by the applicant are that he was compelled to accept the job for short term with miserable breaks several times, which is now being exploited by the respondents although he was to be appointed on regular basis when the post exists and unfair labour practice was being followed by the respondents.

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2. The respondents have stated that the applicant was appointed on adhoc basis from time to time according to temporary requirement in the absence of regularly selected candidate and automatically he ceased to be in service on 8.3.90. In the mean time Staff Selection Commission forwarded the name of two regularly selected candidates for appointment as L.D.C. since there was only one post of L.D.C. lying vacant, only one of the two could be appointed. It appears that Shri Rohit Kumar Sinha who was at serial no. 1, was appointed regularly as L.D.C. After acceptance of resignation of Sri Rohit Kumar Sinha the name of Smt. Suman Lata Shukla widow of late Shri O.P. Shukla, Inspector, was recommended to ~~our~~ Head office on 11.3.91 for appointment as L.D.C. on compassionate grounds, which could not be finalised till 27.3.91. A leave vacancy was caused as one Smt. Poonam Gupta had gone on maternity leave and accordingly by way of adhoc arrangements Sri Girish Kumar and Sri Ram Suresh were appointed purely on adhoc basis on 8.4.1991. As a matter of fact the names were called from the Employment Exchange and they were appointed on purely adhoc basis after test being taken. The applicant also moved application for adhoc appointment, but the application of Smt. Suman Lata Shukla was recommended the petitioner's application was turned down. In the meantime the applicant crossed the prescribed age limit of 18-25 years. Smt. Suman Lata Shukla was appointed on compassionate grounds on 29.4.91 and the services of the petitioner were put to an end and Sri Ram Suresh is still working as L.D.C. due to leave vacancy caused due to maternity leave of Smt. Poonam Gupta.

3. On behalf of the applicant a reference has been made to the case of O.A. No. 206 of 1989 (L) 'G.K. Verma vs. Union of India & others'. Shri G.K. Verma was appointed as L.D.C. on 4.2.85 on temporary basis and his services were terminated after 3 years and 9 months which included one year and two months of continuous service. The said Shri Verma was appointed in place of Shri M.R. Siddiqui who was appointed to the post of Senior clerk-cum-Steno on adhoc basis. When Shri Siddiqui was reverted to the post of L.D.C. the applicant Shri G.K. Verma was also reverted as C/T Maker. But later on it was found that as a matter of fact the applicant of the instant case was appointed ~~in place of Shri M.R. Siddiqui~~ ~~on purely adhoc basis~~ in place of Shri M.R. Siddiqui and the said G.K. Verma was appointed in place of Gyanahandra. In the said case a reference was made to the government instructions dated 29.3.85 providing for the regularisation of the services of the employees in Government Department or offices would be that the minimum continuous period of service of one year, which are not one of the conditions for such regularisation, need not be the year preceding April, 1, 1985. It was in these circumstances that the respondents were directed to consider the case of the applicant for the post of L.D.C. in case no one has been selected by the Staff Selection Commission. In the instant the applicant had not worked more than one year. The applicant should have been given priority and preference on the post of L.D.C.. By not giving appointment to the applicant in

place of leave vacancy the respondents have not acted fairly. The case of G.K. Verma is distinguishable with the present case as he was promoted from lower post and worked for one year continuously and we directed for regularisation and not that he should be deemed regularised and made provisions that he should be made to work, in case no one has joined on the post from S.S.C.

5. The applicant should have been appointed and even now he be appointed in respect of vacancy which hereinafter occurred so long the person from S.S.C. is not appointed. It is true that the applicant would have got better chance in case the persons could not have been appointed on compassionate ground. There appears to be no reason why his case should not be considered and his case should be referred to the Staff Selection Commission. With the observation that the application will be given opportunity in the matter of appointment in leave vacancy in preference of anyone else and his case shall also be sent to Staff Selection Commission for regularisation which obviously will be considered or done in accordance with rules, the application stands disposed of with no order as to costs.

Adm. Member.

Vice Chairman.

Shakeel/

Lucknow: Dated: 1/6/92

Atte. Officer