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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH (U.P.)

Transfer Application No. 1936 of 1987

Versus

Union Of India & Others Respondents

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

Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. Justice U.C.Srivastava,VC)

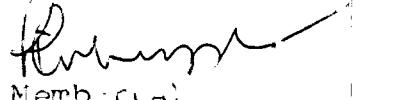
The applicant who had already passed intermediate was appointed as a Class 4th employee in the Allahabad Office of National Savings Organisation on 14.1.1930. In the Lucknow office a post of Lower Division Clerk fell vacant. The applicant also applied for the same and he was interviewed alongwith the candidates whose names were sponsored by the Employment Exchange on adhoc basis. Normally the Staff Selection Commission recruits the Lower Division Clerks on the regular basis against the regular vacancies of the post. The employment exchange forwarded the name as the Regional Director, who wrote to Employment Exchange vide order dated 27/28.1.1933 to fill up the vacancy of Lower Division Clerk on purely temporary adhoc basis till the candidates are sponsored by Staff Selection Commission. It was thereafter, the applicant was appointed as Lower Division Clerk on 26.2.1933 on adhoc basis, which is evident from the order itself, copy which has been annexed by him to the writ petition. Vide order dated 19.1.1933 he was reverted to substantive post of a peon on a 'D' post in the same organisation with immediate effect and one Rajesh Prakash Lower Division Clerk was asked to take charge in the same office. The applicant has challenged this order on the ground that the reversion of the applicant is by way of punishment in violation of the

Constituents

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Article 311 and also Article 14 and 16 of the Constitution of India and after six months it was no longer an adhoc appointment, which could not have been reverted. That post was referable to the Staff Selection Commission and merely by the pending the appointment/ Staff Selection Commission if the employment exchange was contacted and on ----- whose he was working in class IV and the department will consider that will not confer any right. Even if the adhoc appointment continued beyond 6 months, adhoc appointee will not become a regular employee/within a purview of Staff Selection Commission, as such the applicant has not right to the post and he can not be heard making a complaint that he has been wrongly reverted and reversion order attracts the provisions Article 311 of the Constitution of India and provision of Article 14 and 16 of the Constitution of India. In these circumstances, the application deserves to be dismissed and it is dismissed. But it appears that the High Court without considering/ merit of the case was not considered and the ex parte interim order was granted by the High Court. The applicant is continuing on the post. During this period several vacancies have occurred as such the applicant's case for regularisation against these vacancies may be considered. Let the consideration be done within 2 months and during this period he may not be actually be reverted and in case he was not during this period has been regularised or promoted to the higher post. In case of obviously he regularisation will not be reverted, but in case after due consideration he has not been given regularisation and he is not superseded by any juniors. Obviously, the applicant will have to go back. In this observation, the application stands disposed of. No order as to costs.


Member (S)

Lucknow Dated: 16.12.02
(LUKA)


Vice-Chairman