

(3)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

Original Application No. 582/89.

Shri Shrikant S. Sonawane,
Advance Training Institute
Staff Quarters,
Type II/33,
V.N. Purav Marg, Sion,
BOMBAY - 400 022.

... Applicant.

V/S

- 1) The Secretary,
Ministry of Labour,
Shrama Shakti Bhavan,
NEW DELHI - 110 001.
- 2) The Director General,
Employment and Training,
Shrama Shakti Bhavan,
NEW DELHI.
- 3) The Director,
Advance Training Institute,
Chuna Bhatti,
BOMBAY - 400 022.

... Respondents.

Coram: The Hon'ble Vice-Chairman Shri P.S. Shah.

The Hon'ble Member (A), Shri M.Y. Priolkar.

Appearance:

Mr. S.R. Atre,
Advocate for the
applicant.
Mr. R.K. Shetty,
Counsel for the
respondents.

ORAL JUDGMENT:-

Date: 27.9.1989.

(Per Shri P.S. Shah, Vice-Chairman).

We have heard Mr. S.R. Atre, Advocate appearing for the applicant and Mr. R.K. Shetty, Advocate for the respondents. We are satisfied that there is no merit in this petition and the same deserve to be rejected in limine.

2. The applicant was appointed as Draughtsman (Mechanical) by office order dated 30.4.1987 (Annexure A-3 to the application). This appointment was pursuant to the recommendation of the Departmental Selection Committee (DSC)

98

P.I.O.

(4)

in its meeting held on 6.3.1987. It is not necessary to reproduce the terms and conditions of appointment as recommended by the DPC. Suffice it to say that order of 30.4.1987 appointing the applicant as Draughtsman(Mech.) was pursuant to the recommendation of the selection committee on terms and conditions set out by the DPC. The order of appointment brings out certain distinctive features. Firstly, the appointment is on "purely ad-hoc basis." Further this ad-hoc appointment is subject to the conditions mentioned in the order, namely, (i) the appointment is purely on ad-hoc basis until further orders, (ii) the appointment will not bestow upon him any claim for continuity in service or seniority in the said post and (iii) if his work and conduct are found unsatisfactory, he will be terminated without any notice. It is clear that these three conditions relate to the appointment of the applicant "on ad-hoc basis." In other words, these three conditions are applicable so long as the service of the applicant continues on ad-hoc basis. There is nothing in the order nor in the memorandum of the selection committee(Annexure A-2) which even remotely suggests that this appointment was intended to be a regular appointment. It is also to be borne in mind that this appointment was not made ~~by~~ ^{after} following requisite procedure for making regular appointment to a post. The applicant in our opinion cannot lay any claim as of right to the post on the basis of this order.

3. The reply of the respondents shows that the post in question was required to be filled up urgently in public interest and candidates were called for from the Local Employment Exchange without observing the recruitment formalities, i.e. notifying through Central Employment Exchange. It was under these circumstances that the applicant was selected and appointed purely on ad-hoc basis. Further the

PS

petitioner accepted the ad-hoc appointment by his letter dated 21.4.1987 submitted to the respondents. It is also pointed out that the regular incumbent to the said post has been regularised in the higher post on 11.5.1987 and in view of this fact the process for filling up the post on regular basis in accordance with the law and rules was commenced. Accordingly the post has been advertised on 2.9.1989. The post is reserved for Scheduled Caste. The applicant belongs to Scheduled Caste. He too alongwith others has applied to the post. Mr. Atre relied on a circular of Department of Training dtd. 30.3.1988. We do not think that the said circular has any relevance to the question that arises for our consideration in this case.

4. It was next contended by Mr. Atre that since the applicant was continued in the post even after it fell vacant on 11.5.1987 and since he was allotted Government quarters, the same are indicative of the fact that respondents accepted the applicant as a regular employee. Now it is disputed that even persons appointed on ad-hoc basis can be given accommodation, if they are available. There is no rule which prohibits allotment of quarters to such employees. The mere fact that from time to time the applicant was continued after the post has fallen vacant cannot confer status of the regular employee. This is particularly so in view of the condition laid down in the order of appointment. It cannot be said that too long a period has passed after the post fell vacant, so as to raise an inference that the ad-hoc appointment was treated as a regular appointment. In any event, a regular appointment can be made only by following the prescribed procedure and rules. Admittedly, the procedure for making a regular appointment has not been observed in the appointment of the applicant to the post in question.

5. In view of the above discussion, we do not find any merit in this application. The petition is, therefore, rejected. It is, however, clarified that till the regular appointment is made to the post held presently by the applicant, there is no

(6)

-: 4 :-

applicant, there is no reasons why the applicant's ad-hoc appointment should not be continued. We, therefore, direct that applicant should be continued in the post on ad-hoc basis on terms and conditions as provided in the order of appointment dated 30.4.1987, until a regular appointment is made. Subject to the above direction this petition stands rejected.

M. Y. Priolkar

(M.Y. PRIOLKAR)
MEMBER(A).

P.S. Shah

(P.S. SHAH)
VICE - CHAIRMAN.