

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 478/1999

Dated this TUESDAY, the 17th Day of April, 2001.

Shri R.Ganesh & & Ors .... Applicant

(Applicant by Shri Avinash Shivade, Adv.)

Versus

VOI & Ors. .... Respondents

(Respondents by Shri R.R.Shetty for Shri R.K.Shetty, Adv.)

CORAM

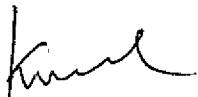
HON'BLE SHRI KULDIP SINGH, MEMBER (J)

HON'BLE SMT. SHANTA SHAstry, MEMBER (A)

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to  
other Benches of the Tribunal?

(3) Library.

  
(Kuldip Singh)  
Member (J)

sj\*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

Original Application No.478/1999

Date of Decision: Tuesday, the 17th Day of April, 2001.

CORAM: HON'BLE SHRI KULDIP SINGH, MEMBER (J)  
HON'BLE SMT. SHANTA SHAstry, MEMBER (A)

1. R.Ganesh,  
age: Adult, Occu. Service,  
Residing at 159-C, D2 Area,  
National Defence Academy,  
Khadakwasla  
Pune 411 023.
2. Dr. Hamid Ismail Awate,  
Age: Adult Occ: Service,  
Res: at 172-B, D2 Circle,  
NDA Khadakwasla, Pune 411 023.
3. Uttamkumar Punnappa Dalavi,  
Age: Adult, Occ: Service,  
Residing at 172/A, D2  
NDA Khadakwasla, Pune 411023.
4. Arvind Keshav Naik,  
Age: Adult, Occ: Service,  
Resd: at Top Floor, Athawale  
Corner, Karve Road, Pune 411 004.
5. Anilkumar Gadegeppa Bidve  
Age: Adult, Occ: Service,  
Residing at 159-C, D2 Area, National  
Defence Academy, Khadakwasla  
Pune 411 023.
6. Anil Prabhakarrao Hiwarekar,  
Age: Adult, Occ: Service  
Residing at 176-B, D2 Circle  
NDA Khadakwasla, Pune 411 023.
7. Sudhindra Gururaj Mujumdar,  
Age: Adult, Occ. Service,  
Residing at Plot No.78, S.No.24,  
Defence Employees Housing Complex  
Ganesh Nagar, Pune 411 031
8. Umesh S. Thatte  
age: Adult, Occ:Service,  
Residing at 44, Ratnakuti  
Vivekanand Society  
Pune 411 009. .... Applicants  
(Applicants by Shri Avinash Shivade, Advocate)



VS.

- 1) Union of India  
Through the Ministry of Defence  
South Block, DHQ Post  
New Delhi 110 011.
- 2) National Defence Academy  
Through the Commandant  
Khadakwasla, Pune 411 023.
- 3) Union Public Service Commission  
Through the Secretary  
Dholpur House, Shahjahan Road,  
New Delhi 110 011.

(Respondents by Shri R.R.Shetty for Shri R.K.Shetty, Adv.)

O R D E R (ORAL)

[Per: Kuldip Singh, Member (J)]:

This is a joint Application filed by 8 Applicants who have been working as adhoc lecturers/teachers with Respondent No.2. The Applicants had sought the following relief through this O.A.

1. The Applicants be permitted to file joint application.

2. That the Respondents NO.1 and 2 be directed to continue the Applicants in service of the N.D.A as Lecturers without any break during summer vacation or any other vacation, till a regularly nominated candidate comes from the Union Public Service Commission.

3. The Respondents No.1 and 2 be directed to pay to the Applicants full salary and allowances as per the pay scales of permanent teachers.

4. The Respondents No.1 and 2 be directed to release increments to the Applicants admissible according to their qualifications and service, as and when due from time to time and fix the pay scales of the Applicants accordingly.

5. The Respondents No.1 and 2 be directed to give benefits of all types of leave to the Applicants as admissible to the temporary employees under C.C.S. (Leave) Rules, 1972.

6. The Respondents be directed to consider the application of the Applicants for regular posts after giving relaxation of age, if necessary, to the extent of the adhoc service rendered by them in NDA ignoring artificial breaks.

7. As and when the Applicants make applications for the post advertised by the Respondent No.3, the Respondent No.3 should be directed to call the Applicants for the interview if the Applicants have the requisite qualification as stipulated in the advertisement.

8. This Hon'ble Tribunal be pleased to pass such other orders as may be necessary in the interest of justice.

9. The Respondents be directed to pay the cost of the present Application.

10. This Hon'ble Tribunal be pleased to quash and set aside the order dated 14.7.99 terminating the services of the Applicant No.7.

The main grievances of the Applicants are that Respondents are resorting to terminate the services of the Applicants by replacing adhoc appointees. This cannot be done in view of the judgement of the apex Court in the case of State of Haryana & Ors. vs. Piara Singh & Ors. [ 1992 SCC (L&S) 825 ] The Counsel for the Applicant also sought reliance on the judgement of this Bench of the Tribunal in O.A. No. 57/95 and 490/98 (A copy of the judgement is available at Exh.A10) wherein the Respondent No.2 had similarly terminated the adhoc appointments of the Applicants. In these O.As. the Bench had given the following directions:

"9. In the result, both the Applications and M.P.No.53/98 are allowed as follows:

(i) While rejecting the claim of both the applications for regularisation/absorption, the respondents are directed not to terminate the services of the applicants till the availability of regular candidates.

(ii) The applicants should be continued in service in future on adhoc basis without any break during summer vacation or any other vacation and to give them in future regular salary as per the scale in which they are working after fixing their pay by giving notional increments from the date of their respective applications (O.A. No.57/95 of Miss Rohini R. Joshi filed on 06.12.1994 and O.A.No.490/98 filed on 5.5.1998).

(iii) The applicants are entitled to other service benefits as detailed in para (8) and (9) except the entitlement of the applicants to credit of leave from the date of their respective application, all other benefits mentioned therein shall be prospectively, namely - from today and onwards.

(iv) In the circumstances of the case, there will be no order as to costs."

2. The facts of the present O.A. and the facts of the above two O.A.s are identical and the ratio of the above decision is applicable in this case also. Learned Counsel for the Respondents has no objection to this. Hence we allow the O.A. and direct the Respondents to follow the directions given by the Tribunal in O.A.No.57/95 and 490/98 in the case of these Applicants also.

3. Counsel for Applicants submit that Applicant at Sr.No.6 Shri Anil\* Prabhakarao Hiwarekar and at Sr.No.7 Sudhindra Gururaj Mujumdar were already terminated and prays for direction that these applicants be considered for appointment on adhoc basis on the basis of the recent advertisement inviting application for adhoc appointment. Since directions had already been given to Respondent No.2 that an Adhoc appointee will not be replaced by another adhoc appointee, we

hope the Department will follow the directions given by the Tribunal in the case of these two applicants also.

4. Learned Counsel for Applicants also invites our attention to a letter placed on record at Exh. 11 32 (A) whereby it is mentioned that services of Shri S.G.Mujumdar stood terminated on 10.6.1999 instead of 14.7.1999 and directed for recovery of some salary excess paid.

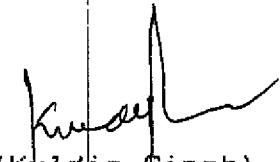
5. Department will check their record and if this Applicant was terminated on 14.7.1999 this recovery will not be effected.

6. The O.A. is disposed of on the above terms. No costs.



(Smt. S. Shastry)

Member (A)



(Kuldip Singh)

Member (J)

sj\*