

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: MUMBAI BENCH
MUMBAI

O.A.No.409 of 2001.

Date of Order:27-9-2001.

Between:

Karsan Soma Solanki, presently posted
as Superintendent(Gazetted), in the
office of the Collector, Collectorate,
Diu, but reverted to the post of
Extension Officer(Village Panchayat)
in the office of the Block
Development Officer, Due.

...Applicant

a n d

1. The Administrator,
Union Territory of Daman & Diu,
and Dadara & Nagar Haveli,
Secretariat, Moti Daman,
Daman-396 220.
2. The Finance Secretary,
O/o the Administrator of Daman
& Diu and Dadara & Nagar Haveli,
O/o Personnel & Admn.Reforms,
Secretariat, Moti Daman,
Daman-396 220.
3. The Collector,
Collectorate, Diu-396 220.

....Respondents

Counsel for the Applicant :: Mr.B.Ranganathan

Counsel for the Respondents :: Mr.V.S.Masurkar

Coram:

The Hon'ble Sri Justice V.Rajagopala Reddy, Vice Chairman

The Hon'ble Smt.Shanta Shastri, Member(Admn.)

.....2

: O R D E R :

(Per Hon'ble Sri Justice V.Rajagopala Reddy, Vice Chairman)

The applicant, who was working as Extension Officer, Block Development Office, Diu, was promoted as Enquiry Officer purely on an adhoc basis for a period of one year on 30-10-95. Though the same has not been extended from time to time, it appears that he has been continuing in the said post on adhoc basis. The respondents passed the impugned Order dated 4-6-2001 reverting him to his substantive post of Extension Officer with immediate effect. This order is now sought to be challenged in this OA.

2. The learned Counsel for the Applicant submits that he should have been issued notice before he was reverted. It is also argued that the action of the respondents in filling up the post by way of deputation is ~~also~~ contrary to the Recruitment Rules.

3. It is, however, the case of the respondents that the applicant, who had been promoted as Extension Officer only on adhoc basis in 1986 and thereafter as the Enquiry Officer in 1995 again on adhoc basis, cannot be continued and it was open to the respondents to revert him at any time to fill up the post on regular basis.

4. We have given careful consideration to the arguments advanced by the learned Counsel on either side.

5. Admittedly the applicant has been promoted on adhoc basis as Enquiry Officer for a period of one year. The order dated 30-10-1995 clearly indicates the adhoc arrangement for a period of one year while promoting the applicant. It is no doubt true that the applicant has been working since 1995 in the said post till the impugned order was passed reverting him to his substantive post. The adhoc promotion will not confer any right for seniority and regular promotion in the grade. He is liable to be reverted at any time to his substantive post without assigning any reason. It is also not necessary, in our view, to issue any notice before reverting an adhoc promotee. At the time of his promotion itself, the applicant knows that his promotion was ~~only~~ purely temporary and that he was liable to be reverted at any time. The order also clearly states that the said order of promotion would not confer any right for seniority and regular promotion in the grade.

6. The learned Counsel places reliance upon RAM UJAREY Vs UNION OF INDIA (1999(1) SC SLJ 381). In the said case, the Hon'ble Supreme Court, considering the facts of that case observed that a notice should have been issued to the appellant in that case, as the appellant ~~therein~~ was earlier

promoted giving the benefit of past service as Coal Khalasi from 1964 to 1972. Later on the said benefit was sought to be withdrawn ^{given in} by the earlier order of promotion. In the background of those facts, the Hon'ble Supreme Court held that notice should have been given before ^{reverting} ~~promoting~~. This case is therefore distinguishable ^{from} ~~with~~ the instant case.

7. It is also seen from the initial order of his appointment as Extension Officer, he was only promoted on adhoc basis in the vacancy caused on the death of the incumbent. Thus he has been functioning only ~~on adhoc~~ on the basis of his adhoc promotion since 1986 as Extension Officer. Again he was promoted in 1995 as Enquiry Officer on adhoc basis. The applicant therefore cannot have any grievance for being reverted to the post of Extension Officer.

8. It is contended by the learned Counsel for the Applicant that his promotion to the post of Extension Officer was not on adhoc basis and that he was holding the same ~~as~~ in the substantive post of Extension Officer. This question may not hold us any movement ~~as~~ as the question that arises for consideration in this case is as to the ^{validity of the} ~~order~~ of reversion from the post of Enquiry Officer to that of the Extension Officer.

9. Under the Recruitment Rules the method of filling up the post of Enquiry Officer is two fold. (1) 50% by promotion failing which by transfer on deputation and (2) 50% by transfer on deputation failing which by direct recruitment. It is stated in the reply that this post is ^{now} being regularly filled up by way of deputation. In our view, this method is sanctioned under the Recruitment Rules as 50% of the vacancies may be filled by way of deputation.

10. In the circumstances, we do not find any merit in this OA. The OA is dismissed with costs of Rs.1000/-.

Shanta
(Smt. Shanta Shastri)
Member(A)

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice Chairman

Dated: this the 27th day of September, 2001

Dictated in the Open Court

DSN