

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

DATED THIS THE 14th DAY OF APRIL 1987

Present : Hon'ble Shri Ch.RAMAKRISHNA RAO MEMBER(J)

Hon'ble Shri L.H.A.REGO MEMBER(A)

APPLICATION No.207/87(T)

RamaRaji Paswan,
Offset Machine Man,
Special Grade, Govt. of India,
Text Book Press, T.N.Pura Raod,
Mysore - 570 011.

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APPLICANT

(Sri Sridhar ... Advocate)

v.

The Union of India, represented
by its Secretary, Ministry of
Works & Housing,
New Delhi.

The Director, Directorate of
Printing, 'B' Wing, Nirman Bhavan,
New Delhi - 11.

The Manager, Govt. of India,
Text Book Press, T.N.Pura Road,
Mysore - 11.

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RESPONDENTS

(Shri N.Basavaraj ... Advocate)

This application has come up before the court
today. Hon'ble Shri L.H.A.Rego, Member(A) made the following :

O R D E R

This is an application transferred under Section
29 of the Administrative Tribunals Act, 1985, to this Bench of
the Tribunal from the High Court of Judicature, Karnataka,
wherein the applicant challenges the impugned order dt.16.11.1977
(Annexure-F) passed by Respondent(R3) as illegal and arbitrary
treating his appointment to the post of Machine Man Grade I(MMG I
for short) as purely ad hoc (in supersession of his earlier order
dt.9.2.1977(Annexure-E) where the applicant's appointment to the

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self-same post was regularised), and prays that it be quashed. He further prays, that the condition stipulating 8 years of experience, as Machine Man in the Recruitment Rules (Annexure G), for the post of MMG I, be declared as unsustainable and arbitrary and that the respondents be directed to consider his case for regularisation in the said post w.e.f.8.12.1976.

2. The facts, in a nutshell, giving rise to this application are as follows. The applicant who was earlier working in the Bihar State Text Books Publishing Corporation was on 15.10.1976 offered by R3, a temporary post of MMG I, in the Government of India, Text Books Press Mysore, on certain terms and conditions as specified in Annexure-A. Inter alia, it was stated therein, that the said post was temporary but was likely to become permanent, in the event of which, he would be considered for permanent absorption in accordance with the rules in force. In pursuance thereof, the applicant was given an order of appointment to this post by R3 on 7.12.1976 (Annexure-B) and directed to report for duty. This was followed by the order dt.8.12.1976 (Annexure-D) by R3, by which the applicant was appointed to this post in a temporary capacity, provisionally for a period of 3 months, on the pay of Rs.425/- per mensem, in the pay scale of Rs.425-700 w.e.f. 8.12.1976 (FN) against the sanctioned post of Offset Machine Man (Special Grade). It was made clear to him in the above order, that his appointment being provisional, he would not have any right for continuance in the post or for seniority in the grade etc, at a later date.

3. By his order dt.7.2.1977 (Annexure-E), R-3 regularised the provisional appointment of the applicant w.e.f. 8.12.1976 (FN) in pursuance of his order dt.8.12.1976 (Annexure-D).

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However, by his order dt.18.11.1977(Annexure-F), R3 informed the applicant that in supersession of the earlier order dt. 7.2.1977(Annexure-E), his appointment in the post of MMG I, was treated purely as ad hoc, till such time he completed 8 years of service in the said post, as required.

4. The applicant submits, that he was appointed to the post of MMG I, without insisting on the condition of 8 years of experience, taking into account his past experience and the fact that candidates of the required qualification were not available. He further states, that he was regularised in this post on 7.2.1977(Annexure-E) and was promoted to the higher grade namely that of Offset Machine Man (Special Grade)(MM(SG) for short) on an ad hoc basis (Annexure-H) on a pay of Rs.500/- per mensem in the payscale of Rs.550-650-25-750. The applicant states, that even though he has been promoted to this post, he has been denied the benefit that accrued to him, as a result of regularisation of his service in the lower grade. The applicant represented to R2 on 19.11.1982(Annexure-F) in this regard, with reference to which, he was informed by R3 on 1.6.1983(Annexure-K) that his appointment to the post of MM(SG), was on an ad hoc basis, and since recruitment rules in regard to this post were yet to be finalised and notified, it was not possible to regularise his appointment either in the post of MMGI or MM(SG).

5. The applicant submitted a representation thereon, on 14.6.1983(Annexure L) to R1, to regularise his services, but it was of no avail, on account of which he filed this application.

6. Sri Ranganath Jois, learned counsel for the applicant contended, that since the services of the applicant were regularised by R3, earlier in the post of MMGI, by his order dt.7.12.1977(Annexure-E), he could not subsequently on 16.11.1977(Anne-

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xure-F) annul that order and treat the applicant as a temporary employee, which action was arbitrary and unsustainable. He further argued, that having once offered the said post to the applicant, which was accepted by him on the terms and conditions stipulated in the offer and his services were regularised by R3, the latter could not have subsequently invoked certain terms & conditions of the Recruitment Rules to the disadvantage of the applicant. Sri Jois pointed out the arbitrariness and lack of rationale, on account of the discrepancy in the years of experience prescribed for filling in the said post by promotion and by direct recruitment. Besides, he pointed out, that the respondent did not take into account the experience gained by the applicant in an allied discipline, in the Bihar State Text Books Publishing Corporation.

7. Refuting these contentions, Sri N. Basavaraj learned counsel for the respondents submitted, that the applicant was appointed by R3, in the post of MMGI w.e.f. 8.12.1976, provisionally for a period of 3 months (Annexure-A). As this post was a temporary one, the applicant, he said, could not be absorbed therein permanently. Referring to the order dt. 8.12.1976 (Annexure-Q) by which R3 regularised the services of the applicant in the post of MMGI, Sri Basavaraj submitted, that this was an inadvertent error, of which the applicant could not take undue advantage, as the earlier and the subsequent correspondence, revealed that his appointment was purely on an ad hoc basis. Besides according to him, the Department of Personnel & Administrative Reforms, Government of India (OPAR, for short), did not approve regularisation of the services of the applicant in relaxation of the recruitment rules particularly in regard to 8 years of experience, as against which the applicant had barely $2\frac{1}{2}$ years of

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experience. The respondents have in their statement of objections referred to Annexure H, which is said to be the decision communicated by DPAR in this respect but the same has not been produced before us.

8. Sri Jois asserted, that when applications were invited for the post of MM(SG) through advertisement, the pre-requisite of 8 years of experience was clearly stipulated and yet the applicant applied for this post without the requisite qualification. He was therefore selected for the post in the lower grade namely that of MMGI, on his acceptance of the offer, but he could not be regularised in this post, as DPAR did not approve relaxation of the recruitment rules.

9. We have carefully examined the rival contentions. Sri Basavaraj contends, that applications were invited by advertisement for the post of MM(SG), for which among other qualifications, 8 years of practical experience of running a web offset printing machine was a pre-requisite. Though the petitioner did not possess the required qualification for this post, he is said to have applied for it, but was selected by the respondents for a post in the lower grade, namely that of MMGI, on offer to and acceptance by him. Perusing the recruitment rules for the post of MMG at Annexure G, we notice that even for this post, 8 years of experience, as machine man for single and double colour work was prescribed as a pre-requisite. We therefore fail to understand as to how the applicant though not considered for the post of MM(SG), could be offered the post of MMGI, even though in either case, 8 years of experience as machine man was a pre-requisite.

10. The applicant was regularised in the post of MMGI according to the order dated 7.2.77 by R3(Annexure-E), even though R3 was clearly aware that according to the Recruitment

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Rules (Annexure-G) 8 years of experience as machine man for single and double colour work was a pre-requisite. Perhaps past experience of the applicant in an allied discipline in the Bihar State Text Books Publishing Corporation was taken into account, while offering the post of MMGI to him and regularising him therein on 7.2.1977. Barely after 9 months i.e. on 16.11.1977, R3, by his order (Annexure-F) changed the status of regular appointment of the applicant to the post of MMGI as ad hoc without giving him prior notice. Since this was detrimental to the service career of the applicant, we are of the view, that in the interests of natural justice, the applicant should have been given proper notice as to why the status of his service in the post of MMGI which was earlier deemed as regular, should not be treated as ad hoc.

11. In view of the foregoing we make the following order :-

(i) We quash the Office Order dated 16.11.77 (Annexure-F) passed by R3, treating the appointment of the applicant as MMGI as ad hoc in supersession of his earlier order dated 7.2.77 (Annexure E).

(ii) We direct the respondents to give a proper notice to the applicant in regard to change of his regular status in the post of MMGI as ad hoc, take into account his submission thereon, in the light of our above observation, and decide the matter within a period of 3 months, from the date of receipt of this order until which time status quo ante would continue.

12: The applicant is at liberty to approach this Tribunal should he be still aggrieved, after decision of his case as above by the respondents.

13. We direct the parties to bear their own costs in the circumstances of the case.

Chandresh Kumar
MEMBER (J) 14-4-87

A. S. J.
MEMBER (A) 14-4-87

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