(4)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.647/91, 693, 694, 695, 696,697 & 698/91

1. Ramdas Kashinath Parhad
C/o. Anil V.Anturkar,
Advocate High Court,
528, Narayan Peth,
Behind Modi Ganpati Temple,
Pune - 411 030. .. Applicant in O.A.647/91

2. Amol Ramchandra Belhe .. Applicant in O.A.693/91

3. Srikant V.Barate .. Applicant in O.A.694/91

4. Shivaji K.Desai .. Applicant in O.A.695/91

5. Miss. U.R.Vichare .. Applicant in O.A.696/91

6. Ms.Sheela Periera .. Applicant in O.A.697/91

7. M.B.Sonavane .. Applicant in O.A.698/91

C/o. Anil V.Anturkar,
Advocate High Court,
528, Narayan Peth,
Behind Modi Ganpati Temple,
Pune - 411 030. .. Applicants

vs.

1. The Dy.Development Commissioner,
for Handloom,
O/O The Development Commissioner
for Handloom,
Udyog Bhavan,
New Delhi.

2. Assistant Director,
Regional Office of the
Development Commissioner of
Handloom(Enforcement Wing),
1650, Sadashiv Peth,
Tilak Road,
Pune - 411 030. .. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman

Hon'ble Shri A.B.Gorthi, Member(A)

Appearances:

1. Ms.Poonam Malaviya
Advocate for the
Applicants.

2. Mr.P.M.Pradhan
Counsel for the
Respondents.

..2/-

ORAL JUDGMENT: Date: 9-1-1992
(Per U.C.Srivastava, Vice-Chairman)

All these applications which are filed against non continuation of service of the employees who has approached this Tribunal has been bunched together as common question of law and fact arises in this case. The parties have exchanged their affidavits and we have heard arguments of counsel for both the parties and with their consent the cases are bing disposed of finally. Admit.

2. All the applicants in this case were appointed in the Office of Development Commissioner for Handloom, Govt. of India, Ministry of Textile at Pune on various posts viz. Stenographer, Peon, Watchman etc. in the year 1986. Prior to their appointment an offer was sent to them which has indicated that initially their services would be on probation and their appointment is temporary. In the offer nowhere it was mentioned that their appointment will be on adhoc basis. But subsequent to acceptance of this offer by these applicants the appointment letters were issued for a period of three months in which the word 'adhoc' contained. This adhoc appointment continued till September, 1991 and thereafter their adhoc appointment was discontinued. When they approached this Tribunal by way of interim order directed that they would be allowed The grievance of the applicants is that although the interim order is there, they offered themselves for work and work is taken from them, their salary is not being paid to them. It is true that in the appointment letter i.e. in the offer only the word temporary was mentioned but later on in the appointment letter the word adhoc was mentioned. It appears that

respondents have become wiser thereafter and the employees who are in search of jobs have no option but to accept all such conditions and they accepted it.

3. In the reply it has been stated by the respondents that yearly sanctions are received to all these posts and after September,1991 no sanction has been received and that is why appointment of the applicants have been discontinued.

4. There is no denial of the fact that the department very well exists and these posts have not been abolished. The only thing, which appears to be, is that for lack of sanction the work is at standstill and it may be because of the post is being shifted to elsewhere.

5. In a similar matter an employee at New Delhi approached the Central Administrative Tribunal at Principal Bench which vide its judgment dtd.23-8-1991 disposed of the application with a direction that "in the event of any vacancy being available now or arising in future in the post of Stenographer Grade III in the office of the respondents, the applicant will have prior claim for appointment in preference to persons with lesser length of service and fresh recruits." This direction was given in the case of an individual. Here the entire batch of applicants working in the office were appointed in the year 1986 and have been thrown out of job after five years of their service. It is something very strange that after five years the sanction has not been given by the Govt. of India when the department is still continuing and the same appears to be only temporary and

there appears to be no reason why the sanction will not be accorded and the applicants will not be allowed to continued in the same post when the applicants are prepared to go where the office is shifted. In view of the fact that the applicants have worked for five years there appears to be no reason that anybody else will be superimposed in their place. They would have placed their claim for regularisation and they had a better claim for regularisation in preference to any other persons provided the sanction is there. But even though the sanction is not there the applicants will be deemed to be on the rolls though they are not actually working or getting salary ~~and~~ or entitled to salary. Accordingly we direct that whenever sanction is accorded and any work is available the applicants not only will be appointed and will be deemed to be in continuous service as usual though for the period ~~from~~ for which sanction was not given or if the sanction is not accorded they will not be entitled to claim any salary or continuity. With the above observation the applications are disposed of with nox order as to costs.