

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 926/94

Date of Decision: 6.7.1999.

Br. J.C. Rana

Applicant.

Shri I.J. Naik.

Advocate for
Applicant.

Versus

Union of India and others.

Respondent(s)

Shri V.S. Masurkar.

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice S. Venkataraman, Vice Chairman.

Hon'ble Shri. S.K. Ghosal, Member (A)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?


(S. Venkataraman)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PREScot ROAD, MUMBAI:1

Original Application No. 926/94

Monday the 6th day of July 1999.

CORAM: Hon'ble Shri Justice S.Venkataraman, Vice Chairman
Hon'ble Shri S.K. Ghosal, Member (A).

Dr. J.C. Rana
Prabhu Falia,
P.O. Nani Daman.

... Applicant.

By Advocate Shri I.J. Naik.

Vs

1. The Administrator
Union Territory of Daman & Diu
Administrator's Secretariat
Fort Area,
P.O. Moti Daman.
2. The Union Public Service
Commission, through
the Secretary
'Dholpur House'
Shah Jahan Road,
New Delhi.
3. Union of India through
Secretary
The Ministry of Home Affairs
Central Secretariat
North Block
New Delhi.
... respondents.

By Advocate Shri V.S. Masurkar.

O R D E R (ORAL)

(Per Shri Justice S.Venkataraman, Vice Chairman)

Respondent No.1 by a notification in News paper called for application from qualified candidates for appointment as ENT Surgeon (Sepcialist). The applicant applied for the post and the local selection committee after interview selected him to the above post.

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However he was appointed on adhoc basis by order dated 13.6.1977. It is not disputed that from that date the applicant has continued to hold the post of ENT Surgeon (specialist) till now. Other colleagues of the applicant who were appointed similarly alongwith him when Goa, Daman and Diu formed one unit, were subsequently regularised after Goa became a State and they opted to go to Goa cadre. However the applicant's services were not regularised. The 2nd respondent has now advertised the post for filling up the same by Direct recruit. It is at this stage the applicant who had already put in 17 years of service has filed this application. The applicant has sought for a direction to respondents to regularise the appointment of the applicant in the post of Senior ENT Surgeon and not to fill up one post by direct recruitment.

2. The respondents have stated in their reply that because the recruitment rules were still to be finalised the applicant was appointed on adhoc basis. Respondent No.1 has pleaded that though the question of regularisation of applicant's service was taken up with UPSC (2nd respondent) the latter has decided to issue advertisement.

3. It is no doubt true that adhoc appointment does not confer any right on the appointee to hold the post. But when a person appointed to a post on adhoc basis continues for a long period the question is whether the services of such person could be regularised or not?

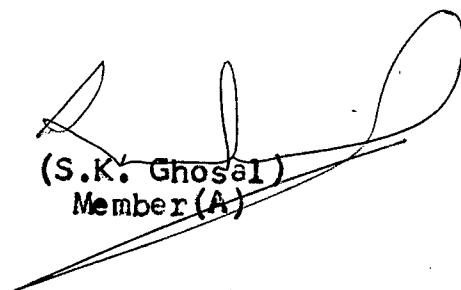
In the case of State of Haryana and others V/s. Piara Singh and others 1992(3)SLJ 34 the Apex Court has held that if for any reason an adhoc or temporary employee is continued for fairly long spell the authority must consider the case for regularisation provided the employee is eligible and qualified according to rules and the service record is satisfactory, as also his appointment is not against the reservation policy. In the case of Dr. A.K. Jain and others V/s. Union of India and others 1988 SCC (L&S)222 the Assistant Medical Officers who had been appointed on adhoc basis and who were continued for a considerable long time had sought for regularisation. In that case the Supreme Court gave a direction that all the Doctors appointed as Assistant Medical Officers on adhoc basis before october 1984 shall be regularised in consultation with the UPSC on the evaluation of other work and conduct on the basis of their confidential reports.

4. This is a case where the respondent No.1 after notification held a selection and appointed the applicant as ENT Surgeon (Specialist) as long as back in 1977 when the recruitment rules had not been finalised. The applicant has already put in 22 years of service. It is not disputed that he is left with only few year of service. He has no chance of securing any other employment at this stage. Merely because he opted to come to Daman and Diu cadre he should not be made to suffer, when similarly situated persons who opted

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to go to Goa cadre got their services regularised. In these circumstances if his services are not regularised even now it would be a travesty of justice. It is a fit case where the UPSC should consider his regularisation as an exceptional case. As admitted by respondent No.1 there is no doubt of his eligibility to hold the post ^{and the post work} nor also came under ^{as his record of service} reservation category.

5. For the above reason we allow this application and direct respondent No.1 to regularise the applicant's service in consultation with respondent No.2. Respondent No.2 is directed to take into consideration the various facts mentioned above ^{as his record of service} while considering his case for regularisation giving relaxation to requirement for direct recruitment. This shall be done within a period of six months from the date of receipt of this order.



(S.K. Ghosal)
Member (A)



(S. Venkataraman)
Vice Chairman

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