

CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH,  
JAIPUR.

OA NO. 1111/92

Date of decision  
18.3.93

P.D.KHANNA ... Applicant.

Mr. J.K.Kaushik ... Counsel for the applicant.

VERSUS

UNION OF INDIA & ORS... Respondents.

Mr. U.D.Sharma ... Counsel for the respondents.

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CORAM :

The Hon'ble Mr.Justice D.L.Mehta, Vice Chairman

The Hon'ble Mr.B.N. Dhoundiyal, Admn. Member.

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PER THE HON'BLE MR JUSTICE D.L.MEHTA,  
VICE CHAIRMAN :-

Heard the learned counsel for the parties.  
Applicant was promoted on ad hoc basis vide order dated 15.9.86 (Annexure-A/3) as Head Clerk purely on ad hoc and temporarily basis. On 6.11.87, he was allowed to cross the Efficiency Bar. (Annexure-A/5) Mr. Sharma submits that there was an order of the DOP that the ad hoc persons should not be continued for more than one year, as such the applicant was reverted under the impression that the continuation of the applicant for 5 years is not in consonance with the instructions of the DOP. Reversion order was passed and Shri D.D.Lalwani, was asked to look after the duties of the Head Clerk on 24.12.1991 (Annexure-A/2) and no extra remuneration was paid to him.

2. Shri Sharma submits that the department held that the mistake has been committed, as such the order Annexure-A/2 was recalled on 29.1.1992 and no appointment has been made thereafter and they

are not intending to appoint any person on the post of Head Clerk. He further submits that the applicant has no right to continue on the post of Head Clerk as he was appointed on ad hoc basis and the appointment order itself is clear that it does not create any right for regular appointment.

3. Shri J.K.Kaushik, submits that this contention itself shows that the right has been created for continuation on ad hoc post till regular selected person is available or till any person who is under suspension is reinstated.

4. Keeping a person for 5 years on ad hoc basis and considering him an efficient person and allowing him to cross Efficiency Bar gives a right to the employee to continue to hold the post till regular appointees are available. He cannot be replaced by a junior on adhoc basis. The applicant is not claiming regularisation but only continuation till the regularly selected person is available. The ground on ~~which~~ which the reversion order was passed is totally baseless. It is the duty of the respondents to see that the ad hoc employee should not be continued for long time by making timely selections.

5. Mr. Kaushik has cited before us the decision of Calcutta Bench of CAT in Upendra Nath Ogha Vs. U.O.I. reported in S.L.J. 1986 part 3 page 359. The Bench held that a person who was worked for 7 years on ad hoc basis and who has been allowed to cross Efficiency Bar and his work was satisfactory cannot be reverted and the reversion is bad. We are in full agreement with the view taken by the Calcutta Bench and we are of the view that the reversion order dated 18.12.91 is bad in law. The period from 18.12.91 upto the date of reinstatement as Head Clerk will count for all purposes with the exception that the applicant shall not be entitled for the emoluments of the post of Head Clerk during this period. The respondents are directed

to issue necessary orders <sup>in</sup> ~~However~~ for restoring his promotion as Head Clerk on adhoc basis within one month. This does not preclude the respondents from making <sup>in</sup> regular selections and replacing adhoc appointees with those regularly selected. With this observation the O.A. is disposed of accordingly. Parties to bear their own costs.

*B.N. Dhoundiyal*  
(B.N.DHOUNDIYAL)  
Member (Admn.)

*D.L. Mehta*  
(D.L.MEHTA)  
Vice Chairman

Shashi/