

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

TUESDAY THE twenty seventh DAY OF October
ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN

: PRESENT :

THE HON'BLE MR. B.N.JAYA SIMHA: VICE-CHAIRMAN
AND
THE HON'BLE MR.D.SURYA RAO: MEMBER.

ORIGINAL APPLICATION NO. 409 of 87

Between:-

K. PURUSHOTAM

.....Applicants.

- 1) The ^{And} Director, Central Institute of Fishermen, Nautical & Engineering Training Unit, P.B. No. 191, Fishing Harbour, Visakhapatnam.
- 2) The Director, Central Institute of Fishermen, Nautical & Engineering Training, Devaris Road, Ernakulam, Cochin.

.....Respondents.

Application under Section 19 of the Administrative Tribunals Act, 1985 praying that in the circumstances stated therein the Tribunal will be pleased to direct the Respondents to regularise the services of the applicant as Junior Clerk w.e.f. 3-1-84 and declare the break of 4 days (i.e., 9-3-87, 10-3-87, 11-3-87 & 12-3-87) after continuous service of 3 years nearly as illegal and unjust by giving all the consequential benefits of seniority, leave, bonus and medical etc ~~as otherwise the applicant will~~ ~~will be irreparable loss and hardship~~.

P
1
20.

(PTO)

(ORDERS OF THE TRIBUNAL)

The applicant herein who was appointed on 3-4-1984 as Junior Clerk in the Central Institute of Fisheries, Nautical & Engineering Training (CIFNET), Visakhapatnam on ad hoc basis. On 25-4-1984, he was given an appointment order stating that he was appointed as a Junior Clerk on ad hoc basis from the fore-noon of 3-4-1984 and that his appointment will be terminated as and when a candidate sponsored by Staff Selection Commission reports for duty or any other permanent group 'D' staff-member is promoted and posted in his place. On 9-3-1987, his ad hoc appointment was terminated. Four days later, that is, on 13-3-1987, he was again appointed as Junior Clerk on ad hoc basis for a period of six months from the fore-noon of 13-3-1987. This order states that the appointment is liable to be terminated without notice and without assigning any reason. The applicant filed this application praying for a direction to the respondents to regularise the services of the applicant as Junior Clerk with effect from 3-4-1984 and to declare the break of four days

contd..2

B3
B2

from 9-3-1987 to 12-3-1987 as illegal. At the end of the six months period, the services of the applicant ~~have been~~ terminated. However, some twenty days later, he has been taken on daily-rated basis at his request.

2. On behalf of the respondents, a counter has been filed stating that junior clerks' posts are to be filled by candidates sponsored by the Surplus Cell of the Ministry of Home Affairs or by candidates nominated ~~transferred~~ by the Staff Selection Commission or by promotion from among the eligible group 'D' employees, on their qualifying in the departmental examination in respect of posts identified ~~for~~ for the group 'D' employees. The entire office comprises of 3 posts of Junior Clerks, one post of Senior Clerk, one Stenographer, ~~and~~ one Librarian and one Store-keeper. Since the posts of Senior Clerk and Store-keeper were not filled by promotion due to non-availability of suitable candidates from the feeder cadre, approval was obtained under G.F.R.77 from the headquarters and the applicant was appointed as Junior Clerk against the vacancy of Store-keeper through the local Employment Exchange. Re

Counter goes on to state that the three posts of Junior Clerks were filled up by candidates sponsored by the Staff Selection Commission / Surplus Cell.

Therefore, regularisation of the applicants who were taken on ad hoc basis does not arise. No notice of termination need be given as the services of the applicant can be ~~dismissed~~ dispensed with at any time. It was open for the applicant to appear for the Staff Selection Commission Examinations conducted in 1984, 1985 and 1986 and get himself ~~him~~ selected, and sponsored for the regular appointment. In these circumstances, the applicant has no right for regular absorption as Junior Clerk.

3. We have heard the Learned Counsel for the applicant and Shri N.R. Devaraj, Learned Standing Counsel for the Respondents. The Learned Counsel for the applicant ~~main argument~~ ^{argued} that the applicant has worked for three years and has a right for

contd..4

PK
DD

absorption. There is also a Circular of the Home Ministry to that effect, according to the Counsel for the applicant, under which ad hoc employees are to be sponsored by the Department where they are working for appearing at the special qualifying examination conducted by the Staff Selection Commission. The Departmental authorities failed to sponsor him for such an examination. The fact that the applicant appeared directly for the S.S.C. examination in 1985 and 1986 does not in any way take away his right to get sponsored for the Special Qualifying examination. Shri Devaraj's argument is that the appointment order itself lays down that the applicant's services were liable to be terminated when S.S.C. candidates become available. The applicant appeared for the S.S.C. examinations directly in 1985 and 1986 and he was not selected. There is, therefore, no discrimination in his non-regularisation. S.S.C. candidates have to get preference over the

contd.. 5

Pb
Dc

ad hoc employees in the matter of regular employ-
ment. We have considered these contentions. Admi-
ttedly the appointment of the applicant is to be
continued till Staff Selection Commission Candi-
dates become available. The applicant did not qualify
in the examinations conducted by the Staff Selection
Commission. We, therefore, find that the applicant
has not established any right for regularisation.
We see no merit in the application. The application
is accordingly dismissed. There will be no order
as to costs.

B.N.Jayasimha
(B.N.JAYASIMHA)
Vice-Chairman.

D.Surya Rao
(D.SURYA RAO)
Member (Judl.)

27th October, 1987.

PJ

DR
RSR*