

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT : HYDERABAD

O.A.No.251 of 1989

Date of Order: 21-3-1990

Between:

C.R.Prabhakaran ..

Applicant

and

1.The Additional Secretary  
Department of Atomic Energy  
C.S.M.Marg, Bombay.

2.The Dy.Chief Executive (A)  
N.F.C., Hyderabad.

3.The Manager (Pers. & Admn.),  
Department of Atomic Energy,  
Nuclear Fuel Complex, Hyd.

Respondents

Appearance

For the Applicant : Shri C.Venkatakrishna, Advocate.

For the Respondents : Shri Naram Bhaskara Rao, Addl.  
Central Govt.Standing Counsel.

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THE HON'BLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HON'BLE SHRI D.SURYA RAO, MEMBER(JUDICIAL).

(JUDGMENT OF THE BENCH DELIVERED BY HON'BLE SHRI B.N.JAYA-  
SIMHA, VICE-CHAIRMAN.)

1. The applicant is an Assistant Accountant in the Nuclear Fuel Complex, Hyderabad. He was promoted on an adhoc basis as Assistant Accounts Officer and worked as such from 23-11-1983 to 12-10-1987. When he was sought to be reverted to the post of Assistant Accountant, he filed O.A.465 of 1987 on the file of this Tribunal seeking a direction for regularisation of his services. In the said application, there was an interim order passed to the effect that any regular appointment made will be subject to the final result of O.A.465 of 1987.

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2. The applicant states that despite the pendency of O.A.465 of 1987, he was holding the post of Assistant Accounts Officer till 12-10-1987. On the date of filing of O.A.465/87 he proceeded on leave from 31-8-1987 to 12-10-1987 and returned from leave on 13-10-1987. ✓ There was no order of reversion issued to the applicant from 23-8-1987 to 12-10-1987. He states that he was once again promoted to the post of Asstt. Accounts Officer on an adhoc basis on 7-9-1988 and that appointment has been extended periodically till 31-3-1989. In this O.A., the applicant seeks a direction that the services rendered by him from the period 7-9-1988 to 31-3-1989 on adhoc basis should form part and parcel of the continuous service rendered by him from 23-11-1983 to 22-8-1987, which is the subject matter in the O.A.465/1987 for the purpose of regularisation of his post in the capacity of Assistant Accounts Officer.

3. On behalf of the respondents a Counter has been filed denying the right of the claim of the applicant.

4. We have heard Shri C.Venkatakrisna, learned counsel for the applicant, and Shri N.Bhaskar Rao, learned Addl. Cental Govt.Standing Counsel, for the respondents.

5. In O.A.465 of 1987 we found that the claim of the applicant for regularisation of his services as Assistant Accounts Officer is untenable. Accordingly that application has been dismissed by us today. The continuance of the applicant on adhoc basis as Assistnat Accounts Officer is contingent upon the non-availability of qualified persons, who have fulfilled the requirements of the norms prescribed for promotion. If and when a person, who fulfills the norms prescribed for the post is available, the applicant cannot be continued and he will have to face reversion.

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To:

1. The Additional Secretary, Department of Atomic Energy, C.S.M.Marg, Bombay.
2. The Dy.Chief Executive(A) N.F.C.,Hyderabad.
3. The Manager(Pers. & Admn.) Department of Atomic Energy, Nuclear Fuel complex, Hyderabad.
4. One copy to Mr.C.Venkatakrishna, Advocate, High Court of Andhra Pradesh, 7-1-571, Subhas Road,Sec'bad-500 003.
5. One copy to Mr.Naram Bhaskara Rao,Addl.CGSC,CAT,Hyderabad.
6. One spare copy.

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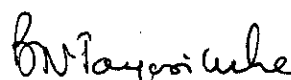
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6. Shri C.Venkatakrishna, learned counsel for the applicant, contends that no statutory rules have been issued under Article 309 of the Constitution. Any administrative instructions issued cannot take the position of the rule in accordance with General Clauses Act (AIR 1593 1966 SC 351). There being no rule, the respondents cannot deny the right of the applicant for promotion to the post of Assistant Accounts Officer on the basis of an administrative instruction prescribing the norms for promotion. In B.N.Nagarajan Vs. State of Mysore (AIR 1966 SC 1942) the Supreme Court observed that even in the absence of any statutory rules it is always open to the Government to make recruitment and appointment to posts through administrative instructions. However such instructions should ensure that the equal opportunity guaranteed under Articles 14 and 16, are not violated. In this case, there are norms prescribed through administrative circular and it has been brought to the notice of all the employees. These norms apply to all the persons. This contention was considered by us in O.A.465 of 1987. For the reasons stated therein, we see no merit in this contention.

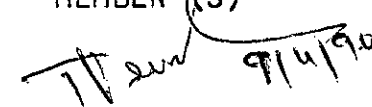
7. In the circumstances, the claim of the applicant that his adhoc service should be considered for regularisation is devoid of merit. We accordingly dismiss the application. No order as to costs.

(Dictated in the open Court)

  
(B.N.JAYASIMHA)  
VICE CHAIRMAN

  
(D.SURYA RAO)  
MEMBER (J)

Date: 21-3-1990-

  
DEPUTY REGISTRAR(A)

nsr/vcr.