

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

AT HYDERABAD

64

O.A. No.

Dt. of Decision 7-4-93

T.A. No.

M.Kantaiah & G. Kullayappa

Petitioner

Mr N.Ram Mohan Rao

Advocate for  
the petitioner  
(s)

Versus

Regional Evaluation Officer, Planng. Commsn., Hyd Respondent.

Mr NR Devraj

Advocate for  
the Respondent  
(s)

CORAM

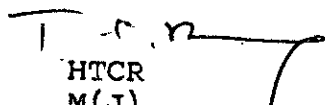
THE HON'BLE MR. **N.V. KRISHNAN, VICE-CHAIRMAN**

THE HON'BLE MR. **T.CHANDRASEKHARA REDDY, MEMBER (JUDL.)**

1. Whether Reporters of local papers may be allowed to see the judgement? *Yes*
2. To be referred to the Reporters or ~~not~~? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circuisted to other Benches of the Tribunal? *No*
5. Remarks of Vice-Chairman on Columns 1,2,4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench.) *No*

ns

  
HNVK  
VC

  
HTCR  
M(J)

(LP)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

---  
ORIGINAL APPLICATION NO.4/89

DATE OF JUDGEMENT: 7th April 1993.

Between

1.M.Kantaiah

2.G.Kullayappa

.. Applicants

and

1. The Planning Commission rep by  
Secretary to Govt. of India  
Yojana Bhavan New Delhi

2. The Regional Evaluation Officer  
Regional Evaluation Office,  
Programme Evaluation Organisation  
Planning Commission, 3-6-291/1  
Hyderguda, Hyderabad

3. The Regional Director (Southern Region)  
Staff Selection Commission  
EVK Sampath Building 2nd Floor  
College Road, Madras-600 006

... Respondents

Counsel for the Applicants

:Mr N.Ram Mohan Rao

Counsel for the Respondents

: Mr NR Devraj

CORAM:

HON'BLE SHRI N.V. KRISHNAN, **VICE CHAIRMAN**

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

JUDGEMENT OF THE DIVISION BENCH AS DELIVERED BY

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER(JUDL.)

-----

Aggrieved by the Notification published in the  
Employment News dated 3.12.88 by the third respondent for  
recruitment of Economic Investigator Grade II, the applicants  
herein have filed this OA under Section 19 of the Administra-  
tive Tribunals Act, to declare the action of the respondents  
in treating the posts of Economic Investigator Grade II at  
Hyderabad and Guntur held by the applicants as vacancies  
<sup>are</sup>  
~~as~~ null and void and declare that the applicants herein are

..2..

hb

entitled to have their services regularised as Economic Investigators Grade II with all consequential benefits such as seniority, etc., and pass such other order or orders as may deem fit and proper in the circumstances of the case.

2. The facts giving rise to this OA in brief, may be stated as follows:

3. The first applicant was initially recruited as Lower Division Clerk in the Programme Evaluation Organisation and he joined the said post on 17.10.64 at the Project Evaluation Office, Eluru. The 2nd applicant was recruited as Lower Division Clerk and he joined the said post on 20.8.71 in the Project Evaluation Office, Anantapur. The first applicant belongs to Scheduled caste and the second applicant belongs to scheduled tribe.

4. Due to the adhoc promotion of the incumbent working in Hyderabad from the post of Economic Investigator Grade II to higher grade, one vacancy of Economic Investigator Grade II arose in the Hyderabad office and the respondents 1 and 2 notified the same to the Local Employment Exchange with a view to fill up the post on adhoc basis for a period of six months. The first applicant herein, who was working as LDC, satisfied the necessary qualification for the post of Economic Investigator Gr. II and submitted his application for the said post was also permitted to be considered for appointment along with the candidates sponsored by the Local Employment Exchange. The first applicant got selected

T. C. ...

..3

22/8/71

orders dt.18.8.81

and was appointed as Economic Investigator Grade II as per/ for a period of six months or till regular arrangements could be made whichever is earlier.

Similarly, when an adhoc vacancy arose for the post of Economic Investigator Grade II at Guntur office, the 1st and 2nd respondents notified the same to the Employment Exchange to sponsor the names of suitable and eligible candidates for appointment to the said post. Since the 2nd applicant possessed the necessary qualifications, he was permitted to submit his application for recruitment as Economic Investigator Gr.II which was considered by respondents 1 and 2 and was permitted to compete with those candidates sponsored by the Employment Exchange. The second applicant was selected for appointment as Economic Investigator Grade II and the first respondent through the order dated 24.5.85 appointed the 2nd applicant against the vacancy at Guntur on adhoc basis for a period of six months or till a regular arrangement was made whichever was earlier. It may be mentioned here that the orders appointing both the applicants specified that they were made for a period ~~xx~~ of six months or till a regular arrangement is made whichever is earlier. But as a regular arrangement could not be made to the said post within the specified time, the respondents permitted the applicants herein to continue beyond the period of six months with all benefits like increments, etc. which were attached to those posts.

5. As the vacancies of Economic Investigator Grade II at Hyderabad and Guntur became available on regular basis after the regular incumbents vacated on their regular promotion in the higher grade, the first respondents

T. C. Rao

22/8/85

218

published a notification dated 18.1.1980, through staff Selection Commission for filling up the said vacancies on regular basis and invited applications from the qualified candidates. It is the case of the applicants that the said vacancies at Hyderabad and Guntur cannot be treated as regular vacancies and cannot be filled up. Hence, the present OA is filed by the applicants for the relief(s) as indicated above.

6. Counter is filed by the respondents opposing this OA.

7. The main contention of the respondents is that the applicants herein were appointed to the said post of Economic Investigator Grade II at Hyderabad and Guntur purely on adhoc basis and that the applicants do not have a right to continue in the said posts for ever and that the applicants had to give way to the regular appointees as and when regular appointments to the said two posts of Economic Investigator Grade II vacancies at Hyderabad and Guntur are made. Now the main question that has got to be considered is whether the applicants have got a right to continue in the said posts and as such, a direction is liable to be given to the respondents to regularise their services with effect from the date they were appointed to the said post of economic Investigator Grade II.

8. As already pointed out, the first applicant of Economic Investigator Gr. II herein was appointed to the said post as per orders dated 18.8.91. The appointment order reads as follows:

T. C. R.

Handwritten marks at the bottom left corner.

..5..

LS

"No.A-32015/9/80-Admn.IV  
Government of India  
Planning Commission

Yojana Bhavan, Sansad Marg,  
New Delhi-1.

Dated:18th August,1991

O R D E R

Shri M. Kantaiah, Lower Division Clerk in the Regional Evaluation Office of the Programme Evaluation Organisation (Planning Commission) at Hyderabad is hereby appointed as Economic Investigator Grade II in the same Organisation at Hyderabad, purely on temporary basis for a period of six months or till regular arrangement is made whichever is earlier and until further orders in the scale of Rs.425-15-500-EB-15-560-20-700/-. His appointment will take effect from the date he reports for duty at Regional Evaluation Office, Hyderabad.

Sd/-  
(N.K. AGGARWAL)  
Dy.Secretary to the Govt.of India"

The second applicant herein was <sup>appointed</sup> ~~posted~~ to the said post as **Economic Investigator Grade II** as per orders dated 24.5.85 which reads as follows:

"No.A-32015/9/84-Admn.IV  
Government of India  
Planning Commission  
---

Youjana Bhawan, Sansad Marg,  
New Delhi, the 24th May, 1985

O R D E R

Shri G.Kullayappa, Lower Division Clerk(Non-CSCS) in the Project Evaluation Office of the Programme Evaluation Organisation (Planning Commission) at Guntur is hereby appointed as Economic Investigator Gr.II in the same organisation at Guntur on an intial basic pay of Rs.425/- per month in the scale of Rs.425-15-500-EB-15-560-20-700/- on adhoc basis with immediate effect for a period of six months or till regular arrangement is made, whichever is earlier.

Sd/-  
(B.S. YADAV)  
Joint Secretary(Admn)

T. C. R.

..6.

50

From the appointment orders referred to above, it is more than clear that the applicants had been appointed to the said post purely on adhoc basis. We have also indicated while narrating the facts giving rise to the OA under what circumstances, the vacancies of Economic Investigator Grade II on adhoc basis arose and it is not necessary to repeat once again the circumstances under which the said two posts became available on regular basis. So as the applicants had been appointed on adhoc basis, we wonder how it is open for them to contend their appointments are to be treated as having been made on regular basis.

9. As per the recruitment rules, it is only Staff Selection Commission that has got to select and on that ~~xxx~~ basis to the post of Economic Investigator Gr.II. the applicants are to be appointed. Admittedly, in this case, the appointments were not made on the recommendations of the staff selection commission. As both the applicants are ~~xxx~~ appointed on adhoc basis and as the selection and appointment was not as per recruitment rules, their appointments cannot acquire a regular status. If the relief prayed for by the applicants is granted, it would amount to injustice to other LDCs/ Computers/Tabulation Clerks who are senior to the applicants, because had they known that the vacancies required to be filled <sup>up</sup> on regular basis they could have also applied for being considered as departmental candidates along with the nominees of the Employment Exchange. It would be significant to note that only the Hyderabad based first applicant applied for the vacancy at Hyderabad and the Guntur based applicant applied for the vacancy at Guntur. If the vacancies are to be

T. C. S. P.

6/12/21

(5)

filled not on adhoc basis, but on regular basis persons senior to the applicant would also have staked their claims to the posts. More deserving candidates could have applied, ~~if~~ if wider publicity through an advertisement of the Staff Selection Commission was given but the intention never was to fill the vacancies on regular basis. So the applicants cannot be allowed to get benefit of regular appointment which they would not have otherwise got. It is not open for the applicants to get themselves appointed on regular basis through back door entry.

10. As already pointed out, for regular appointments, as per reply of respondents, the Staff Selection Commission is the sole agency for making recruitment to these posts. Regular selection is made on All India basis through Staff Selection Commission. Here <sup>only</sup> the local employment exchanges at Hyderabad and Guntur had been addressed as the posts have to be filled up on adhoc basis. So all the requirements for direct recruitment were not satisfied at the time the applicants' appointments were made as the vacancies were only for a ~~xxx~~ short-time. That is why the applicants, as could be seen, were initially appointed for six months, though their period has been extended from time to time. The applicants have never gone through the <sup>selection</sup> process required for direct recruitment.

11. The applicant cannot also be treated as regular promotees as their suitability was not adjudged by a Departmental Promotion Committee along with that of other departmental candidates senior to the applicants for promotion to the post of Economic Investigator Grade II because it was not intended to fill up the vacancies by promotion. So, for the

T. o. n. f.

2/15/51

52

said reasons, we do not have any doubt to come to the conclusion that the appointments of the applicants are purely on adhoc basis and so, they do not have a right to continue in the said post and as such, the OA is liable to be dismissed.

12. It is the contention of the learned counsel appearing for the applicants, that the applicants have already undergone the processes necessary for direct recruitment and as a consequence ~~and so~~ they are appointed, ~~the mere styling of their~~ appointment as temporary or adhoc does not take away their right to be treated to have been appointed on a regular basis. We have already made it clear that the appointment of the applicants by any stretch of ~~said to have been~~ imagination cannot be ~~xxxx~~ made on regular basis as their selection and appointment was not on regular basis, and ~~that their~~ appointment was purely on adhoc basis and a stop-gap arrangement to serve the administrative exigencies. So, we see no ~~basis~~ at all in the contention of the learned counsel for the applicant that the appointments of the applicants ~~to the post of Economic Investigator Gr.II~~ have been made on regular basis.

13. It is nextly contended by the learned counsel for the applicant, that in the circumstances of the case, that <sup>it</sup> could be ~~safely~~ inferred that both the applicants satisfy the requisites for direct ~~recruitment~~ recruitment to the post of Economic Investigator Gr.II by direct recruitment as well as by promotion. So it is ~~argued even~~ though it is not accepted that the applicants were not appointed on a regular basis by direct recruitment, at least it has got to be

T. C. [Signature]

22/10/21

5

inferred that the applicants as having been promoted to the said post on regular basis and in view of this position their appointments have got to be treated as having been made on regular basis.

14. The recruitment rules provide that 50% vacancies are to be filled by direct recruitment of candidates who possess degree in Economics/Commerce/Maths/Statistics or a degree in Sociology and remaining 50% vacancies are to be filled by promotion - 25% among persons of three feeder grades of computer, Tabulation Clerks and Unit Clerks who are graduate and have rendered 5 years regular service in their respective grade and 25% by promotion of the persons of the 3 feeder grades having atleast 10 years' service in their respective grade. As could be seen, promotion of the persons in both types of cases of promotion, is to be made on the basis of seniority-cum-fitness. Though the applicants <sup>may</sup> satisfy their requirements for recruitment as Economic Investigator Grade II by either method, it cannot be said that their appointment was made on regular basis by "direct" recruitment. for reasons already indicated. They were ineligible for being appointed on promotion basis on the dates on which they were appointed on adhoc basis as they were not senior enough to be considered for promotion on those dates. So, the argument of the learned counsel for the applicant cannot be accepted when he contends that the applicants satisfy the requisites for both <sup>the</sup> types of recruitment.

T. C. N.

22/10/74

54

15. In 1981(3)SLR - Bishundeo Mahto and others Vs State of Bihar ~~wherein~~ it is held that ~~ad hoc~~ adhoc appointments are only an adhoc arrangements due to exigency of a particular situation without considering the merits of all those who are eligible. This is so to say, a stop-gap arrangement. Such an appointment is fortuitous. It does not confer any right of continuance even on the temporary post.

16. In an another decision reported in 1979(2)SLR 164 SK Verma and others Vs State of Punjab and others it is held as follows:

"Therefore, having regard to the ordinary meaning of the term, no distinction can reasonably be drawn between a temporary employee whose services are terminable without notice or otherwise and an employee characterised as adhoc and employed on similar terms. Indeed it appears to us that in the gamut of service law an adhoc employee virtually stands at the lowest rung. As against the permanent, quasi-permanent and temporary employee, the adhoc-one appears at the lowest level implying that he had been engaged casually or for a stop gap arrangement for a short duration or fleeting purposes."

It is clear from the facts and circumstances of the case that due to administrative exigencies for performing administrative task in the said post of Economic Investigator Gr.II that the applicants herein had been temporarily appointed. When the administration stands on ~~such~~ ~~a~~ ~~dire~~ need of hands ~~as~~ ~~ad hoc~~ ~~of~~ ~~and~~ ~~it~~ strict meticulous adherence to ~~the~~ merits, and at times even ~~ad hoc~~ eligibility in the matter of age and qualification and also <sup>the</sup> sanctioned ~~ed~~ procedures for selection are given a go-by in the public interest.

T . c . n . f

10/11/81

3

In the nature of things, it is expected to be a one time act to afford to the administrative authority, a breathing time to select and appoint candidates in strict compliance with the relevant rules or the executive instructions. So, in view of the above legal position, in our opinion, the applicants have no right to continue in the said post and do not have a right for their services getting regularised. In this context, it will be worthy also to note a decision of the Supreme Court reported in AIR 1991 SC 184 Keshav Chandra Joshi and others Vs Union of India wherein it is laid down as follows:

"Once an incumbent is appointed to a post, according to rules, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation. Whether the initial appointment is only adhoc and not according to rules and is made as a stop-gap arrangement, the period of officiation on such post cannot be taken into account for reckoning seniority. The appointment to a post must be according to rules and not by way of adhoc or stop-gap arrangement made due to administrative exigencies. If the initial appointment thus made was de hors, the rules, the entire length of such service cannot be counted for seniority. In other words, the appointee would become a member of the service in a substantive capacity from the date of his appointment only if the appointment was made according to rules and seniority would be counted only from that date."

So, as the appointments of the applicants herein are purely on adhoc basis and not as per recruitment rule, the applicants herein cannot claim their services to be regularised in the post of Economic Investigator Gr.II. Hence, we see no merits in this OA and this OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.

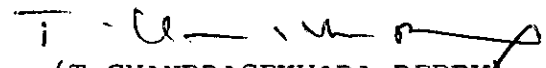
T.C. *[Signature]*

*[Handwritten mark]*

..12..

96

17. When this OA came up for admission hearing on 5.1.89, this Bench, by way of an interim order had directed the respondents not to revert the applicants during the pendency of this OA, from the post of Economic Investigator Gr.II at Hyderabad and Guntur respectively. This Bench also had directed by the said interim order, that it was open to the respondents to go ahead with the selection process to <sup>fill up</sup> the posts of Economic Investigator Gr.II including the two posts in question in this OA, and, that the respondents shall not release the results of the said selection during the pendency of this OA. As this OA is dismissed, the interim order dated 5.1.89 stands vacated.

  
(T.CHANDRASEKHARA REDDY)  
Member(Judl.)

Dated: \_\_\_\_\_ 7 April, 1993

mvl

12/4/93

By Hon'ble Sh.N.V.Krishnan, Vice Chairman(A).

18. I fully agree with the views expressed by my learned brother and with the conclusions reached by him. I would, however, like to add a few words of my own.

19. The applicants have no case that direct recruitment is to be done by only calling for names from the Employment exchange and permitting local officials to be considered. The respondents have stated in para 3 of their reply in unambiguous terms that the Staff Selection Commission is the sole agency for making regular selection for filling the posts of Economic Investigator, Grade II by direct recruitment. This has not been refuted by the applicants.

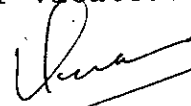
20. The learned counsel for the applicant strenuously argued that the applicants were selected by as good a method as is adopted by the Staff Selection Commission. We cannot agree. It can be seen from the impugned advertisement of the Staff Selection Commission exhibited with the application that it calls for applicants from the whole country. Obviously, the appointment of the applicants, after considering only their names along with the names of candidates sponsored by the local Employment Exchange cannot be considered to be equivalent to direct recruitment by the Staff Selection Commission.

21. The learned counsel for the applicant also made much of the fact that this method of recruitment was resorted to after the recruitment rules had been notified on 18.1.90. Therefore, he contended, this was a deliberate act for recruiting persons regularly to the vacant posts. We are unable to agree. The very fact that the appointing authority resorted to a method not provided for in the recruitment rules, shows that he was making only ad-hoc recruitment. An ad-hoc appointee cannot claim regularisation on the basis of the ad-hoc appointment.

13/11/90  
S  
/

(S)


22. For these reasons I fully agree that the application has to be dismissed and the interim order vacated.



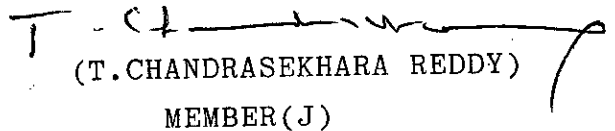
(N.V.KRISHNAN)  
VICE CHAIRMAN(A)

Order of the Bench:

23. For the reasons mentioned in our judgement, we dismiss this application and vacate the interim order dated 5.1.89 thus enabling the respondents to fill up the post of Economic Investigator, Grade II, on regular basis.



(N.V.KRISHNAN)  
VICE CHAIRMAN(A)



(T.CHANDRASEKHARA REDDY)  
MEMBER(J)

Deputy Registrar (J) 8/2/93

- To
- to Govt.of India,
1. The Secretary,/Planning Commission  
Yojana Bhavan, New Delhi.
  2. The Regional Evaluation Officer, Regional Evaluation  
Office, Programme Evaluation Organisation  
Planning Commission, 3-6-291/1,Hyderguda,Hyd.
  3. The Regional Director (Southern Region)  
Staff Selection Commission, EVK Sampath Building,  
2nd Floor, College Road, Madras-6.
  4. One copy to Mr.N.Rammohan Rao , Advocate, CAT.Hyd.
  5. One copy to Mr.N.R.Devraj, Sr.CGSC.CAT.Hyd.
  6. One copy to Deputy Registrar(J) CAT.Hyd.
  7. Copy to All Reporters as per standard list of CAT.Hyd.
  8. One spare copy.

pvm

1/11/89  
per  
A.