

91

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD.

D.A.No. 9 of 1990

DATE OF DECISION: 11-6-90

~~TXA XXXX~~

Between:-

H.J.K.Murthy

Petitioner(s)

Shri N.Rama Mohana Rao, Advocate.

Advocate for the
petitioner(s)

Versus

Union of India & 2 others

Respondent.

Shri E.Madan Mohan Rao, Addl.CGSC

for R.- 1 & 2

Advocate for the
Respondent(s)

Shri C.Suryanarayana, Advocate,
for Respondent No.3.

CGRAM:

THE HON'BLE MR. B.N.Jayasimha, Vice-Chairman.

THE HON'BLE MR. J.Narasimha Murthy, Member(Judicial).

1. Whether Reporters of local papers may be allowed to see the Judgment ? *no*
2. To be referred to the Reporter or not ? *no*
3. Whether their Lordships wish to see the fair copy of the Judgment ? *no*
4. Whether it needs to be circulated to other Benches of the Tribunals ? *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*

B.N.J.
(B.N.J.)

J.N.M.
(J.N.M.)

92

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT : HYDERABAD

O.A.No. 9 of 1990

Date of Order: 11-6-1990

Between:

H.J.K.Murthy

..

Applicant

and

1. Union of India rep. by its
Secretary to Govt. of India,
Ministry of Finance, Department
of Economic Affairs, North Block,
Parliament Street, New Delhi.
2. General Manager, Govt. of India,
Security Printing Press, Saifabad,
Hyderabad-500004.
3. Shri N.S.Ranganath, Administrative
Officer, Govt. of India, Security
Printing Press, Saifabad, Hyderabad-4.

..

Respondents

Appearance:

For the Applicant : Shri N.Rama Mohan Rao, Advocate
For the Respondents : Shri E.Madan Mohan Rao, Addl.CGSC.
1 & 2
For Respondent No.3 : Shri C.Suryanarayana, Advocate.

CORAM:

THE HONOURABLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HONOURABLE SHRI J.NARASIMHA MURTHY, MEMBER (JUDICIAL).

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE SHRI B.N.JAYASIMHA,
VICE-CHAIRMAN.)

1. The applicant is an Accountant in the Security Printing Press, Hyderabad. He has filed this application questioning the order issued by the 1st respondent in letter No.3(3)/89-PM (SPP), dated 3-11-1989 and Memo No.SPP/AI/89/3489, dated 16-11-89 of the 2nd respondent and the Diary Order No.18, dated 15-6-1989 of the 2nd respondent promoting the

contd...

3rd respondent on officiating capacity as Administrative Officer.

2. The applicant states that respondent No.3 and he had assumed charge of the post of Accountant on deputation basis on 19-7-1982 in the Security Printing Press. Both had been selected for deputation by transfer as Accountant from the India Government Mint, Bombay, and in the selection that took place, the applicant had been placed above respondent No.3. He also states that even as L.D.C. respondent No.3 was junior to him. While the respondent No.3 was working as U.D.C., he was promoted in the India Govt. Mint at Hyderabad as Deputy Bullion Registrar on 31-1-1981 on an adhoc basis and he was given a proforma promotion as Head Clerk w.e.f. 7-4-1982. At the time the 3rd respondent submitted his application for deputation as Accountant, he was holding the post of Deputy Bullion Registrar on adhoc basis. The respondent No.3 was not eligible for recruitment as Accountant in the Security Printing Press. The post of Deputy Bullion Registrar is on the factory side and not on the administrative side.

3. The applicant further contends that the process for finalisation of recruitment rules for the Security Printing Press took considerable time and the rules were published on 14-5-1985. The post of Accountant and some other posts were not dealt with in the 1985 rules and the Security Printing Press (Group-C posts) Recruitment (Amendment) Rules, 1987 were issued through a notification dated 30-6-1987. According to this, the post of Accountant is a selection post. The permanent absorption of all the employees willing for such absorption could not be processed till these rules were issued. At the highest level in the Government of India, it was decided that till the recruitment rules are finalised, the services of the Accountants would not be regularised. Notwithstanding this, by a Diary Order 10-11-1983, respondent No.3 was treated to be holding the regular post of Accountant

contd...

in the Security Printing Press w.e.f. 9-8-1983. By a the
Diary Order No.2, dated 12-4-1985, the services of applicant
were treated to have been made on temporary transfer of post
instead of on deputation terms w.e.f. 1-4-1985. It was made
clear in both these cases that permanent absorption will be
finalised only after the recruitment rules are notified and
the posts become permanent.

4. By Diary Order No.74, dated 16-3-1989, the services of
the employees in the Security Printing Press were regularised.
The applicant's services were regularised from 30-6-1987 and
that of Shri K.Devendrudu as Accountant from 1-7-1987. The
name of respondent No.3 did not appear in these proceedings.
As the rules were issued on 30-6-1987, the services of the
applicant were regularised w.e.f. that date.

5. A Departmental Promotion Committee was constituted for
the purpose of considering the claims of eligible officers
for regularisation of their services in the Security Printing
Press, Hyderabad. It met in June 1988 and considered the
claim of the applicant as well as respondent No.3 and recommen-
ded for regularisation of their services subject to the
approval of the Ministry of Finance. However, the applicant
understands that through a communication dated 25-9-1988,
the Government of India, Ministry of Finance, turned down the
proposal for the regularisation of the services of the
respondent No.3 in the post of Accountant. The screening
committee constituted earlier in the Ministry of Finance had
taken a decision that respondent No.3 should be repatriated
immediately to his parent unit i.e. India Govt. Mint,
Hyderabad. This was communicated to respondent No.2 through
letter dated 16-4-1987. In spite of this, respondent No.3
was not repatriated and his services were proposed to be
regularised as Accountant in the Security Printing Press.

contd...

bvi

35

Respondent No.2 with a view to favour respondent No.3, did not repatriate respondent No.3 to his parent unit. Another Departmental Promotion Committee was constituted some time in February 1989 to consider afresh the claims of the eligible officers for regularisation. As the proposals submitted by the DPC have not been accepted by the Ministry, respondent No.2 issued orders in Diary Order No.74, dated 16-3-1989. It is clear from the proceedings dated 13th February 1989 the services of respondent No.3 have not been regularised as Accountant.

6. There are two posts in the cadre of Accounts Officer/ Administrative Officer and these posts are inter-changeable and carry the same status and same scales of pay. Both the posts are Class-B gazetted posts. Respondent No.3 was erroneously considered for being placed as Accounts Officer on an adhoc basis in December 1983 by respondent No.2 as by then the services of no Accountant in the organisation were regularised. To discharge the functions of Accounts Officer, respondent No.3 was placed as Accounts Officer with a conditional order. Respondent No.3 was allowed to continue on an adhoc basis till 1985 when the Ministry of Finance took serious objection for the continuance of respondent No.3 on adhoc basis indefinitely. In spite of these objections and directions for reverting the respondent No.3, respondent No.2 did not take any steps for reverting respondent No.3. In the mean time the applicant was promoted on adhoc basis as Administrative Officer w.e.f. 19-3-1988 and he started functioning from that date. Respondent No.2 issued Diary Order No.AI/3472, dated 28-10-1988 reverting respondent No.3 as Accountant from the post of Administrative Officer from that date. Under a mistaken impression that the applicant should also be reverted, respondent No.2 issued another Diary

bs

contd...

Order on the same date reverting the applicant also as Accountant.

7. For promotion to the post of Accounts Officer/Administrative Officer, the following are the qualifications required under the recruitment rules:

- (1) Accountants with 5 years regular service in the grade.
- (2) Failing (1) above, Accountant with 8 years combined regular service in the grade of Accountant/Head Clerk/Cashiers.

8. The post of Accounts Officer/Administrative Officer is a selection post and the selections have to be made by the Departmental Promotion Committee consisting of respondent No.2 as Chairman and one officer of the Department of Economic Affairs of the rank of Deputy Secretary, incharge of the Mints and Printing Division, and another officer of the rank of Deputy Secretary incharge of the Department of Economic Affairs looking after the Administration. The Departmental Promotion Committee was constituted on 23-11-1988 and it considered the claims of the eligible employees. The DPC raised certain observations made about the eligibility of the respondent No.3 for promotion as Accounts Officer/Administrative Officer. However, another D.P.C. was constituted on 6-2-1989 and the earlier co-opted members were excluded. One Shri Minz, Assistant Works Manager, India Government Mint, Hyderabad, who has been appointed recently, was included. The General Manager, India Govt. Mint, is also incharge as General Manager, Security Printing Press, Hyderabad. This constitution was resorted to see that the D.P.C.'s proceedings will have a smooth sailing for considering the claims of respondent No.3. This committee did not consider the claim of the applicant on the erroneous ground that his service as Accountant is not yet regularised. As

contd...

the claim of respondent No.3 was rejected once earlier, the question of convening another D.P.C. and entrusting it with the job of considering the claims of the 3rd respondent ought not to have arisen. Because of the interest taken by the 2nd respondent, another D.P.C. met on 21-3-1989 and notwithstanding the earlier rejections of the claims of the 3rd respondent on 6-2-1989, recommended the name of the 3rd respondent.

9. The applicant filed O.A.239 of 1989 seeking a declaration that the actions of respondents 1 and 2 in not considering his claim for promotion as Administrative Officer/Accounts Officer as unconstitutional. Respondent No.3 filed O.A.222 of 1989 questioning the order reverting him from the temporary adhoc promotion as Accounts Officer. This Tribunal in its Judgement dated 9-6-1989 held that the matters relating to the regularisation in the post of Accounts Officer/Accountant has resulted in inordinate delay despite the rules were formed and finalised in the year 1987-88 and it was directed that the respondents should regularise and fill up the post immediately. Both the O.As. were dismissed with these observations. However, respondent No.2 denied the claim of the applicant. Thereafter the applicant filed O.A.505 of 1989 questioning the validity of the promotion of the 3rd respondent as Administrative Officer. This Tribunal in its judgement dated 6-7-1989 directed that the applicant should file an appeal before the 1st respondent and that the said appeal should be disposed off within 3 months. The applicant submitted an exhaustive appeal on 15-7-1989 to respondent No.1 raising all the available substantial grounds. The 1st respondent has not applied his mind to the various points urged by the applicant and by a letter dated 3-11-1989, his appeal was rejected. Hence the applicant has filed this application.

BNT

contd...

10. Respondent No.2 has filed a counter on behalf of Respondents 1 & 2. According to the seniority list that is available with the Administration after 10-11-1983, respondent No.3 is senior to the applicant. The post of Deputy Bullion Registrar's designation is given because this position is related to the factory shop-floor. The posts of Deputy Bullion Registrar and Deputy Accountant are inter-changeable. The contention of the applicant that respondent No.3 does not ~~specify~~ ^{ask} the conditions of the circular is not correct. The screening and interviewing committee ^{having} found respondent No.3 suitable had selected him as Accountant with the full knowledge that he was not holding a regular position of Deputy Accountant in the Mint. However, respondent No.3 was promoted on 21-7-1982 as Head Clerk (Proforma) w.e.f.7-4-1982 after his joining the Security Printing Press on 17-7-1982 in view of the lien the respondent had on 21-7-1982 in the Mint. The applicant himself did not satisfy the 5 years' regular service of Head Clerk specified in the circular. However, he was ^{alongwith respondent No.3} also selected by the screening/interview committee. As there were not many candidates for such positions and as the organisation could not continue without the services of the proper persons, the screening and interviewing committee had given necessary relaxation and considered their appointment to the posts of Accountant.

11. By a Diary Order dated 10-11-1983, Shri N.S.Ranganath, i.e. respondent No.3, had been treated as holding regular post in the scale of Rs.550--800 in the Security Printing Press w.e.f. 9-8-1983. From the records it is seen that the services of respondent No.3 were not regularised as Deputy Bullion Registrar taking into consideration the modified recruitment rules which came into force w.e.f. 9-8-1983 in view of the fact that he has been transferred to the Security Printing

contd...

Press and got absorbed temporarily on adhoc basis w.e.f. 2-5-1983. A person junior to the respondent No.3 in the Mint had also been regularised as Deputy Accountant which is an analogous post to that of Deputy Bullion Registrar. The General Manager, Security Printing Press has probably taken action for issuing a regularisation order of respondent No.3 as Accountant w.e.f. 9-8-1983 because of these considerations. The contention of the applicant that respondent No.3 is not regularised in any post in the Security Printing Press is not tenable as his services were regularised by the then General Manager in his Diary Order No.39, dated 10-11-1983.

12. It is not correct that the D.P.C. papers were returned by the Ministry of Finance only because of 3rd respondent. The Ministry took note of certain procedural deviations noticed in the D.P.C. in respect of regularisation of the services of candidates in Group-C cadres as they were not entirely satisfying Recruitment Rules in respect of qualifications, service, etc.. The Ministry Member on the D.P.C. sought reasons for regularisation of the services of respondent No.3 when it had desired his repatriation. It is a fact that the Govt. of India, Ministry of Finance, after screening all the D.P.C. papers, advised through their letter No.12/4/82-Cy(SPP)PM, dated 16-4-1987 ~~asked~~ the General Manager to repatriate respondent No.3 alongwith others. The General Manager in his letter dated 13-5-1987 brought to the notice of the Ministry the difficulties to be encountered if respondent No.3 is to be repatriated. Subsequently when the Ministry again asked for repatriation of 3rd respondent in the year 1988, the then General Manager has also brought to the notice of the Ministry the reasons for continuing the respondent No.3 in the organisation vide his letter dated 26-7-1988.

13. In regard to the contention that the name of the 3rd

contd...

respondent was not included in the order of regularisation, it is stated that as respondent No.3's services had been regularised by a Diary Order No.39, dated 10-11-1983 as Accountant, his name was not included in the general order issued for regularisation.

14. The proposals for one time absorption of all officers were sent to the Ministry for obtaining the concurrence from the U.P.S.C. and issue necessary orders w.e.f. the date of finalisation of recruitment rules i.e. 5-8-1985. From the records it is seen that a reference had been made to the Chief Controller of Accounts from the Pay and Accounting Unit of the Security Printing Press specifically mentioning that all these officers were continuing on adhoc basis without the valid sanction of the Ministry of Finance. From this, the Ministry had perhaps taken a view not to issue any further orders considering the action taken for regularising the services of officers working in the Security Printing Press on adhoc basis. The Ministry, however, directed for repatriation of one Mr.M.Subba Rao, S.G.K.Acharyulu and Respondent No.3 to their parent department vide their letter dated 16-4-1987. The General Manager had explained the reasons for not repatriating both respondent No.3 and S.G.K.Acharyulu and requested the Ministry for reconsideration of their earlier decision of repatriation and retain them in the Security Printing Press. The final decision of reverting respondent No.3 was conveyed by the Ministry vide telex dated 17-10-1988 issued by Sri A.N.Saxena and this was finally implemented by respondent No.2. As the applicant herein is junior to the 3rd respondent as per the records available in the office of the 2nd respondent, when the Ministry directed to recert 3rd respondent from the post of Accounts Officer which is on adhoc basis, it was felt appropriate to revert the applicant, who is junior to third respondent and consider the cases for promotion on regular basis afresh after regularising all the eligible Accountants available.

bng

contd...

15. In regard to the minutes of the D.P.C., it is stated that the minutes of the D.P.C. held on 23-11-1988 were returned by the members of the D.P.C. in the Ministry with a direction to segregate the minutes in two parts viz., one comprising minutes and the other comprising background note. This was duly done in the D.P.C. meeting held on 6-2-1989 wherein the co-opted member representing SC/ST stated that the regularisation of Sri K.Devendrudu(SC) in the cadre of Accountant may be done so that a reserved post will go to the reserved candidate. The Ministry returned the minutes on 7-3-1989 directing to take up regularisation of the employees in the feeder grade and then conduct D.P.C. Accordingly, the services of 41 classified ministerial staff were regularised on 16-3-1989 and then a D.P.C. was constituted on 21-3-1989 to consider the claims of all eligible employees(Accountants) for the posts of Accounts Officer and Administrative Officer.

16. In regard to co-opting Sri S.C.Minz in the D.P.C. dated 21-3-1989, it is stated that generally whenever DPC requires an SC/ST officer to be co-opted in the DPC as a member for SC/ST, the respondents approached the A.G's office. On approaching the member from A.G's office, he expressed his inability to participate due to his pre-occupation. Thereafter the Commissioner of Income Tax was requested to depute a Group A officer belonging to SC/ST to co-opt in the DPC (Group B). Shri DRV Narsimha, Assistant Director of Investigation, has been deputed as a co-opted member for SC/ST. Subsequently Shri Narsimha has expressed his inability to attend the DPC meeting held on 21-3-1989 due to his pre-occupation. Hence the 2nd respondent had no other option but to co-opt Shri S.C.Minz, a Group A officer of India Govt. Mint, Hyderabad.

17. In regard to the implementation of the judgement of the Central Administrative Tribunal, Hyderabad Bench, which

contd...

bvt

dismissed both the applications of the applicant and respondent No.3 herein, legal opinion was sought from the Standing Counsel for taking further action in accordance with the directions of the Tribunal passed in O.A.222 of 1989 and O.A.239 of 1989. The Tribunal in O.A.505 of 1989 had observed that "the order appointing the applicant has been made on regular basis as is clear from the records produced by the 2nd respondent". After taking the legal opinion, the 2nd respondent issued the appointment order in regard to respondent No.3, which is now sought to be impugned by the applicant. For these reasons, the respondents 1 & 2 oppose the application.

18. The respondent No.3 has also filed a counter affidavit. He says that while it is true that he and the applicant joined as Accountants in the Security Printing Press at Hyderabad on 19-7-1982, he was functioning as Deputy Bullion Registrar in the scale of pay of Rs.550--800 as from the date of his joining the Security Printing Press, Hyderabad, whereas the applicant was working only as Head Clerk in the pay scale of Rs.425--600. He was thus in a higher scale and higher cadre whereas the applicant was in a lower cadre. Even though he was functioning as Deputy Bullion Registrar in India Government Mint at Hyderabad, he was also given an option to go on deputation to the Security Printing Press at Hyderabad. Since he was only functioning in an officiating capacity as Deputy Bullion Registrar at the time of his deputation, his services were regularised as Head Clerk in the India Government Mint w.e.f. 7-4-1982 as he belonged to that organisation. The post of Accountant in the Security Printing Press, Hyderabad, is a selection post as also the Accounts Officer/Administrative Officer posts. By Diary Order No.5, dated 5-5-1983 his services were transferred temporarily on adhoc basis w.e.f. 2-5-1983 and by another order dated 10-11-1983, he was treated

contd...

bnt

as holding the post of Accountant w.e.f. 9-8-1983. The applicant was treated to have been on temporary transfer to the Security Printing Press, Hyderabad, w.e.f. 1-4-1985 only. According to the Government of India, Department of Personnel & Training, O.M.No.20011/1/88-Estt.(D), dated 12-12-1988 "among the persons in the feeder grades given the same grading, those in the higher scales of pay will rank senior to those in the lower scale of pay. In accordance with this O.M., he was rightly given seniority as Accountant over the applicant in the Security Printing Press, Hyderabad. He was also given promotion as Accounts Officer w.e.f. 9-12-1983 in the Security Printing Press, Hyderabad, on an adhoc basis and for more than 6 years the applicant worked as Accountant under his control and jurisdiction without any protest. The applicant never protested the seniority assigned to him nor did he raise any objection when he was promoted as Accounts Officer. The applicant cannot, therefore, now be permitted to question the validity of his deputation and subsequent absorption as Accountant in the Security Printing Press, Hyderabad, and promotion as Accounts/Administrative Officer at this distance of time. The applicant also did not raise any objection nor make any protest as soon as the 1985 rules were issued. He waited for more than 1½ years to raise objections and make protests and the applicant's claims are, therefore, barred by limitation. In the absence of statutory rules for recruitment and/or absorption, executive orders or instructions are given validity for such recruitment and regularisation. In accordance with this principle, the regularisation of his services as Accountant from 9-8-1983 and subsequent promotion as Accounts Officer w.e.f. 9-12-1983 are quite in order and cannot be called to be questioned by the applicant. According to the ruling given by the Calcutta Bench of the CAT in

contd...

60/5

124

RUHIPADA SARKAR vs. UNION OF INDIA & OTHERS in O.A.No.485/1986
adhoc service has to be counted if it is followed by regular
service and the adhoc service cannot be ignored. For these
reasons, respondent No.3 resists the claim of the applicant.

19. We have heard Shri N.Rama Mohan Rao, learned Counsel
for the applicant, and Shri C.Suryanarayana, learned Counsel
for respondent No.3 and Shri E.Madan Mohan Rao, learned Addl.
Central Government Standing Counsel for respondents 1 & 2.

20. The ~~major thrusts of the argument~~^{main points urged by} of Shri N.Rama Mohan Rao
are: (1) the applicant and the respondent No.3 belong to the
same class of service and both were on deputation to the
Security Printing Press. When the Government had taken a stand
that the services of the staff should not be regularised on
absorption in the Security Printing Press until the recruitment
rules were finalised, any order issued in regularising the
services of respondent No.3 is not in order. Conversely if
the services of respondent No.3 could have been regularised
even without waiting for the issue of the recruitment rules,
the services of the applicant also should have been regularised
without waiting for the regularisation of his services;
(2) Despite repeated advises by the Ministry to revert
respondent No.3, the respondent No.2 retained respondent No.3
in the higher post clearly to benefit him contrary to the
instructions; (3) Any irregular promotion made contrary to the
rules cannot confer any right on respondent No.3 for counting
that promotion for purposes of regularisation or for purposes
of counting seniority over the applicant.

21. From the facts narrated in the application and in the
counters, the following chronological details in respect of
the applicant and respondent No.3 may be noted:

contd...

SERVICE PARTICULARS OF THE APPLICANT AND THE RESPONDENT NO.3

SHRI H.J.K.MURTHY, APPLICANT.					SHRI N.S.RANGANATH, RESPONDENT NO.3				
Sl. No.	Details	Date	Office & place	Regular/Adhoc	Sl. No.	Details	Date	Office & Place	Regular/Adhoc
1	2	3	4	5	6	7	8	9	10
1.	First appointed as L.D.C.	25-4-60	I.G.Mint, Bombay	Regular	1.	First appointed as L.D.C.	9-3-61	I.G.Mint, Hyderabad.	Regular
2.	Confirmed as L.D.C.	22-1-66	"	"	2.	Confirmed as L.D.C.	2-4-67	"	"
3.	Promoted as U.D.C.	1-8-68	"	"	3.	Promoted as U.D.C.	7-4-69	"	"
4.	Confirmed as U.D.C.	7-5-73	"	"	4.	Confirmed as U.D.C.	10-2-77	"	"
5.	Promoted as Head-Clerk	10-4-78	"	"	5.	Proforma promotion as Head Clerk	7-4-82	"	Not regular
6.	-	-	-	-	6.	Promoted as ad-hoc Dy.Bullion Registrar (Non-ministerial post)	31-1-81	"	Purely ad-hoc
									(Applications were called from regular Accountants/Head Clerks/Cashier. No D.B.Rs.)
7.	Appointed as Accountant on deputation	19-7-1982	S.P.P., Hyderabad	Ad-hoc	7.	Appointed as Accountant on deputation	19-7-82	S.P.P. Hyderabad	Ad-hoc
8.	-	-	-	-	8.	G.M.issued B.O.No.39 without D.P.C. and Govt.'s approval.	10-11-83	"	Ad-hoc
9.	-	-	-	-	9.	Promoted as A.O. Group 'B' post on ad-hoc basis.	9-12-83 (D.O.No.16, dt.16-3-1988)	"	Ad-hoc
10.	Promoted as Admn. Officer Group 'B' post on ad-hoc basis.	19-3-88 (D.O.No.16, dt.16-3-1988)	"	Ad-hoc	10.	-	-	-	-
11.	Reverted as Accountant.	27-9-88 (D.O.No.50, dt.27-9-88)	S.P.P. Hyderabad	Regular	11.	Reverted as Accountant	27-9-88 (D.O.No.51, dt.27-9-88)	S.P.P. Hyderabad	Ad-hoc
12.	Promoted as Accounts Officer (Group-B)	28-9-88 (D.O.No.53, dt.28-9-88)	"	Ad-hoc	12.	Promoted as Admn. Officer (Group-B)	28-9-88 (D.O.No.52, dt.28-9-88)	"	Ad-hoc
13.	Reverted as Accountant	28-10-88	"	Regular	13.	Reverted as Accountant	28-10-88 (D.O.No.A1/3472/3840, dt.28-10-8 1988)	"	Ad-hoc
14.	Issued order of Regularisation as Accountant w.e.f. 30-6-87.	16-3-89	"	Regular	14.	-	-	-	Ad-hoc (D.O.No.74, dt.16-3-89)
15.					15.	1st D.P.C.	23-11-88		
16.					16.	2nd D.P.C.	6-2-89		
17.					17.	3rd D.P.C.	21-3-89		

for r

22. There is no dispute that the services of the applicant and others who had gone on deputation to the Security Printing Press were not regularised on the ground that the recruitment rules have not been issued. It is also seen that the services of the applicant and others were regularised with effect from the date of the issue of notification bringing into force the recruitment rules. We have not received any explanation from the respondents 1 and 2 as to how the services of respondent No.3 were regularised from the date earlier to the promulgation of the recruitment rules. Although respondent No.2 states that the counter filed by him is also on behalf of respondent No.1, at various places in the counter we notice that respondent No.2 had no knowledge as to what view respondent No.1 took on several points which have been raised by the applicant in his affidavit. At one point the respondent No.2 states " it is submitted, perhaps the General Manager, Security Printing Press, might have taken action on the said letter and issued orders of regularisation of 3rd respondent as Accountant w.e.f. 9-8-1983 through Diary Order No.39, dated 10-11-1983". There is no categorical statement as to the circumstances under which the services of 3rd respondent were regularised from 9-8-1983. There is also no clear answer to the contentions of the applicant that respondent No.1 i.e. Ministry of Finance, had directed the repatriation of respondent No.3 to his parent cadre. If respondent No.3's services have been regularised and he has been confirmed in the Security Printing Press, the question of his repatriation would not arise at all. No correspondence has been shown to us wherein respondent No.2 has communicated to the respondent No.1 that the question of repatriation would not arise since Respondent No.3's services have been regularised. On the contrary, the respondent No.3 was reverted and promoted again

contd...

in compliance to the instructions from the Ministry. In these circumstances, we have no option but to conclude that the claim of the respondent No.3 and also the statement of respondent No.2 that the ~~respondent~~^{No.3's} services were regularised w.e.f. 10-11-1983 as Accountant has ~~any~~^{no} basis at all. We also find that when once it was decided that the services of all the deputationists could not be regularised until the recruitment rules were issued, no exception could have been made in respect of respondent No.3. On both these points, therefore, we find that the contention of the applicant has to be upheld. The services of the applicant and the respondent No.3 could be regularised as Accountants, in accordance with the recruitment rules only after the issue of the recruitment rules. Alternatively if respondent No.1 decided that retrospective promotion could be given (in view of the long delay in the issue of recruitment rules), that should be applied to all the deputationists. It cannot be given to one employee and denied to others.

The Impugned Order is set aside and
24. In the circumstances, ~~we therefore~~^{we} direct the respondent No.1 to consider the matter of regularisation of the services of the applicant and respondent No.3 in accordance with the recruitment rules applying the same criterion, viz., from the date the recruitment rules are issued. However, if it is proposed to regularise the services from an earlier date, respondent No.1 should give the benefit of regularisation of the services from an earlier date to all the deputationists including the applicant. This review will be done by respondent No.1 within a period of two months from the date of receipt of this order. Thereafter in accordance with the seniority in the grade of Accountant following the orders of regularisation issued in accordance with the directions given above, the cases of the applicant and respondent No.3 will be

contd...

considered for promotion to the post of Accounts Officer/
Administrative Officer as per rules.

25. The application is disposed off accordingly. There
will be no order as to costs.

B.N. Jayasimha
(B.N. JAYASIMHA)
VICE-CHAIRMAN

J. Narasimha Murthy
(J. NARASIMHA MURTHY)
MEMBER (JUDICIAL)

Dated: 11th June 1990

Deputy Registrar
DEPUTY REGISTRAR (J).

nsr
To

1. The Secretary to Govt. of India, Ministry of Finance, Department of Economic Affairs, North Block, New Delhi.
2. The General Manager, Govt. of India Security Printing Press, Saifabad, Hyderabad-500004.
3. One copy to Mr. N. Rammohana Rao, Advocate, 714, B Block, Brundavan Apartments, Red Hills, Hyderabad.
4. One copy to Mr. E. Madan Mohan Rao, Addl. CGSC, CAT, Hyderabad.
5. One copy to Mr. C. Suryanarayana, Advocate, 1-2-593/50, Sri Sri Marg Gagan Mahal Colony, Hyderabad-5000029.
6. One spare copy.