

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No. 584/90

Date of Order: 18.11.1993

BETWEEN :

M.Varaprasad

.. Applicant.

A N D

1. The Union of India,
Ministry of Home Affairs,
Bureau of Police Research &
Development, New Delhi,
rep. by the Secretary.

2. The Director General,
Bureau of Police Research &
Development, Block No.11 (3rd Floor),
Lodhi Road, New Delhi.

3. Director in Charge,
Central Forensic Science Laboratory,
Bureau of Police Research Development,
Ramanthapur, Ambarpet Post,
Hyderabad - 500 013.

.. Respondents.

Counsel for the Applicant

.. Mr.B.Nalin Kumar for
Mr.K.G.Kannabiran

Counsel for the Respondents

.. Mr.N.V.Ramana Add.CC.SL

CORAM:

HON'BLE SHRI A.B.GORTHI : MEMBER (ADMN.)

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

Order of the Division Bench delivered by
Hon'ble Shri A.B.Gorthi, Member(Admn.).

The applicant was appointed as an adhoc Scientific Assistant (Photography) in the pay scale of Rs. 425-700 on 28.5.79. Confronted with an order dated 26.6.90 which is to the effect that his services would be terminated w.e.f. the date of expiry of a period of one month, he has approached this Tribunal. At the time of admission of the OA, the respondents were directed by means of an interim order to suspend the impugned order dt. 26.6.90. Consequently the applicant continues to be in the service of the respondents as on today.

2. The name of the applicant was sponsored by the Regional Employment Exchange for the post of Scientific Assistant (Photography) in the Central Forensic Science Laboratory, Bureau of Police Research & Development, Hyderabad. He was subjected to proper selection along with other candidates, and having been found suitable was given the appointment under the orders of the Director. Ever since he is continuing to discharge his duties satisfactorily and without any damage. He crosses EB in 1985 and also in 1992. As recently as on 12.11.93, he was awarded honorarium of Rs.500/- for having continued good work and showing devotion. Despite his continued good work the respondents have chosen to terminate his service merely on the ground that some directive to that effect had been received from the higher authorities.

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3. The respondents in their reply affidavit have stated that as per recruitment rules applicable to the post of Scientific Assistant, the educational qualifications was M.Sc., 1st class or 2nd class in the specified subject. As the recruitment rules were under process of being amended the applicant was appointed merely on adhoc basis, because he did not possess the required educational qualification. The applicant passed S.S.C. only. The appointment order itself made it clear that the appointment of the applicant was purely on adhoc basis and was liable to be terminated as soon as a candidate from the Staff Selection Committee became available. Thus the contention of the respondents is that the appointment of the applicant was not in accordance with the recruitment rules, that it was made purely on an adhoc basis and that the applicant being only Metriculate cannot claim to be regularised in his post.

4. We have heard learned counsel for both the parties. From the rival contentions raised it becomes necessary to first examine the nature of appointment of the applicant. The respondents have drawn our attention to the Class-III posts in Central Forensic Science Laboratory (Recruitment) Rules 1973. As per the said rules the minimum educational qualifications specified for a Scientific Assistant is M.Sc., 1st or 2nd class in the specified subject. A copy of the rules shown to us make no reference to the post of Scientific Assistant (Photography). We therefore presume that these rules of 1973 did not provide for recruitment to the post of Scientific Assistant (Photography). We are not persuaded to accept the respondents' contention that the same educational qualifications specified for Scientific Assistant would apply to the Scientific Assistant (Photography) also. In the relevant

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record shown to us by the respondents we have noted the existence of the Bureau of Police Research and Development (Photographer and Assistant Photographer) Recruitment Rules 1979. Admittedly the applicant's organisation is Bureau of Police Research and Development. These rules indicate that for the post of Photographer the essential qualifications are as under:-

1. Matriculation or equivalent of a recognized University or Board.
2. Theoretical knowledge of photography and dark room.
3. Atleast 3 years extensive experience in document photography.
4. Desirable. Practical experience in photo micrography, ultraviolet and infrared photography of dark room.

The said post carried the scale of Rs.425-700.

5. Admittedly the applicant, besides possessing the qualification of S.S.C., held a Diploma in Photography at the time of his recruitment. In the letter from the Director of Central Forensic Science Laboratory addressed to the Employment Exchange it was stated that candidates were required for recruitment to the post of Scientific Assistant (Photography) and that the qualifications specified were Matric with Diploma in Photography with experience of atleast 2 years in Scientific Photography. As the applicant fulfilled the specified educational qualifications and other requirements, he was given the appointment. It would thus appear that the selection and appointment of the applicant was done without violation of any of ^{the} rules or instructions. We cannot therefore accept the respondents' contention that the appointment of the applicant at the

relevant time was not in accordance with the recruitment rules.

6. Admittedly the applicant was appointed on an adhoc basis only. Learned counsel for the applicant strongly contended that the applicant having worked continuously for almost 14 years as an adhoc employee deserves to be absorbed regularly in that post. In support of his contention he has drawn our attention to 1991 (1) SCC 28 wherein the Hon'ble Supreme Court observed that employees who were serving in the establishment for long spells and holding the requisite qualifications for the job should not be thrown out but their services should be regularised as far as possible.

7. Another case on which learned counsel for the applicant has placed reliance is that of H.C.Puttaswamy V. The Hon'ble Chief Justice of Karnataka High Court, Bangalore and others AIR 1991 SC 295. In that case the issue under the consideration was the legality of certain appointments made. Even though the appointments made were found to be not strictly legal, a humanitarian approach was followed as can be seen from the under mentioned passage:

8. Further we may also refer to State of Haryana and others V. Biafa Singh and others AIR 1992 SC 2130 wherein it was observed, inter alia, as under:-

"If for any reason, an adhoc or temporary employee is continued for a fairly long spell, the authorities must consider his case for regularisation provided he is eligible and qualified according to rules and his service record is satisfactory and his appointment does not run counter to the reservation policy of the State. The proper course would be that each State prepares a scheme, if one is not already in vogue, for regularisation of such employee consistent with its reservation policy. If and when such person is regularised he should be placed immediately below the last regularly appointed employee in that category, class of service, as the case may be."

9. In view of the afore-stated decisions of the Supreme Court and in the light of the facts arising in this O.A. we find that this is a fit case where the respondents ought to regularise the service of the applicant instead of throwing him out of the job which he held satisfactorily for almost 14 years. We have also noted from the records that the applicant was initially appointed in the vacancy that arose on account of the resignation of one Mr. Yasodhara Rao. In the case of Mr. Yasodhara Rao also we noted that he was appointed on a temporary basis in the year 1970 and he continued in that appointment till he resigned in 1978. The same authority who appointed Mr. Yasodhara Rao also appointed the applicant. In fact the Director CESL appointed the applicant as per the directions received ^{vide} from the Bureau of Police Research Development, memo dated 8.2.79. In that memo it was stated that as the recruitment rules were under process ^{of} amending, the Director can fill up the vacancy of Scientific Assistant (Photography) on an

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Copy to:-

1. Secretary, Ministry of Home Affairs, Bureau of Police Research & Development, Union of India, New Delhi.
2. The Director General, Bureau of Police Research & Development, Block No.11, (3rd floor), C.G.O.Complex, Lodhi road, New Delhi
3. Director in Charge, Central Forensic Science Laboratory, Bureau of Police Research Development, Ramanthapur, Ambarpet posts, Hyd-013.
SL K.G. Karanbaren &
4. One copy to Sri.B.Nalin kumar, advocate, 10-3-29/2, East Marredpally, Secunderabad-026.
5. One copy to Sri. N.V.Ramana, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

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adhoc basis through the Employment Exchange. It is not stated therein that such an appointment could be made in relaxation of any of the rules nor do we find from the material before us that any relevant rule had either been bypassed or relaxed in recruiting the applicant to the post of Scientific Assistant (Photography).

10. For the afore-stated reasons we find that the applicant possessed the required educational qualifications as stipulated at the relevant time for appointment to the post of Scientific Assistant (Photography) and that his appointment was done properly. He having continued in that post for a long period of 14 years his case deserves to be regularised we order accordingly.

11. Learned counsel for the applicant stated that the respondents were estopped from terminating the services of the applicant. We need not go into this matter as we have already held on merits that the applicant's services deserved to be regularised.

12. In the result, we set aside the impugned order dt. 26.6.90 and direct the respondents to consider the case of the applicant for his regular absorption in the post of Scientific Assistant (Photography).

13. O.A. is allowed. There shall be no order as to costs.

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(T. CHANDRASEKHARA REDDY)
Member (Judl.)

transcript
(A.B. GORTHI)
Member (Admn.)

Dated: 18th November, 1993

(Dictated in Open Court)

sd.

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Dy. Registrar (Judl.)

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O.A. 584/90

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE-CHAIRMAN

AND,

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY
MEMBER(J)

AND

THE HON'BLE MR.R.RANGARAJAN : MEMBER(A)

Dated: 18/11/1993

ORDER/JUDGMENT:

M.A/R.A/C.A.No.

O.A.No. 584/90

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

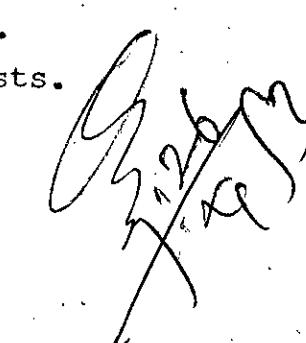
Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs.



pvm