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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.783/95

DATE OF ORDER : 02-04-1998.

Between :-

K.K.Viswanadhan

... Applicant

And

1. Union of India rep. by its Secretary,
Dept. of Science & Technology,
New Delhi.
2. Surveyor General of India, Survey of
India, Hatibarkara Estate, PB.37,
Dehradun, Uttar Pradesh-248 001.
3. Director, S.E.Circle, Survey of India,
Survey Bhavan, RR Lab Post,
Bhubaneswar, Orissa State.

... Respondents

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Counsel for the Applicant : Shri P.B.Vijay Kumar

Counsel for the Respondents : Shri Kota Bhaskar Rao, CGSC

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CORAM:

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

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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(Order per Hon'ble Shri R.Rangarajan, Member (A)).

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Heard Sri P.B.Vijay Kumar, learned counsel for the applicant and Sri Kota Bhaskar Rao, standing counsel for the respondents.

2. The applicant in this OA was working as UDC at Coimbatore. A circular was issued bearing No.C1-16390/4-F-5 dt.20-11-1985 of Respondent No.3 enclosing a letter of Respondent No.2 bearing No.C-6435/1354(Ad-hoc) dt.8-11-85. As per letter dt.8-11-85 certain vacancies of UDCs/Assistants are to be filled on adhoc basis at Shillong/Bhubaneshwar/Ranchi/Indore/Nagpur/Pune/Visakhapatnam/Raipur. The relevant portion of the above letter, which needs consideration in this OA, is re-produced below :-

Their appointment will remain adhoc till it is regularised by a duly constituted DPC. It will however be ensured that till such time they are regularised, none else would be posted against those posts provided the service record of such adhoc promotees remains satisfactory.

The applicant was given the movement order dt.21-4-86 for proceeding to Visakhapatnam on transfer onpromotion as Assistant/ Head Clerk. It is stated that the applicant carried out the transfer and joined at Visakhapatnam as Head Clerk. In the meantime certain instructions were issued in regard to adhoc appointments by circular No.C-2849/1902-Adhoc dt.20-05-1994 (Annexure-II to the OA). The adhoc promotion of the applicant was cancelled and he was asked to hold the additional charge

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of the higher post on current duty basis until the post is filled up on regular basis by order No.C-826/1902-Adhoc dt.20-02-1995. The name of the applicant is at Sl.No.6 in that impugned order.

3. This O.A. is filed for setting aside the instructions given for adhoc appointment by the impugned letter dt.20-05-1994 and also the reversion order dt.20-2-95 by holding the impugned reversion order dt.20-2-95 is not in accordance with the Respondent No.1 letter dt.8-11-85.

4. A reply has been filed in this O.A. The learned counsel for the respondents submits that the applicant was only posted on adhoc basis and hence he was reverted by the impugned order dt.20-2-95 but his reversion does not mean that he was ~~devastated~~ ^{divested} of the duties of Head Clerk at Visakhapatnam. He was asked to hold the additional charge of the higher post from 20-2-95 till such time he was regularised. He was regularised by order dt.28-2-96. Eventhough the impugned order dt.20-2-95 was issued, the applicant was not put to any dis-advantage till 28-2-96 when ^{as H.C} he was regularised at Visakhapatnam.

5. The option called for from the various employees in the grade of UDC for promotion as Head Clerk in various divisions by letter dt.8-11-85 of Respondent No.2 is very clear and the relevant portion from that letter is extracted. As per the extracted portion, it is evident that an employee promoted on adhoc basis as Head Clerk, as per the option given, by letter dt.8-11-85 will be continued in that capacity till such time he

has been regularised and none will be posted in the post occupied by such an employee till he is regularised. This portion does not indicate that he will be reverted and will be asked to discharge higher duties till regularisation. Hence in our opinion the impugned order itself is against the instructions contained in letter dt.8-11-85. Further the para-2 of the impugned order is to the detriment of the employee. It clearly says that the applicant is asked to hold the additional charge on current duty basis untill filling up of the vacancy on regular basis. The word "current duty" in a government organisation means that the applicant though discharging the higher duties of Head Clerk, will not get the emoluments of the Head Clerk. Hence the applicant is put ~~in~~ ^{at} dis-advantage even though the applicant is continued to hold the additional charge of the post. Hence we feel that the impugned order ~~is~~ for the reasons stated, is against the instructions given in letter dt.8-11-95. The learned counsel for the respondents read out a judgement of the Allahabad Bench of the CAT in this connection. A reading of that judgement indicates that it is a case of dispute regarding seniority of the applicant therein from the date of adhoc promotion which was rejected by the Allahabad Bench of the Tribunal. In this case the applicant does not pray for his seniority right from the date he was promoted on adhoc basis. He only prays for ⁶ setting aside the impugned order dt.20-2-95 by which he was reverted so as to protect his financial benefits accrued to him as Head Clerk at Visakapatnam. Hence the judgement cited by the standing counsel for the respondents in no

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way sustains ~~his~~ case. Hence this contention is rejected.

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6. The learned counsel for the applicant produced a judgement in OA 40/95 decided on 18-11-97 of the Guwahati Bench of CAT. That O.A. was filed one Mr. Shambhoo Singh Solanki. The name of Mr. Solanki also figures in the impugned order dt. 20-2-95. However, Mr. Solanki challenged order dt. 7-3-95. We are not sure whether the impugned order dt. 7-3-95 is similar to the impugned order in this OA i.e. dt. 20-2-95. Though the learned counsel for the applicant submits that both are same orders ~~but~~ it is not necessary for us to go into that contention and check the veracity of that letter. Sri Solanki was promoted in the year 1982 probably on a letter based similar to the letter dt. 8-11-85. When he was reverted, he approached the Guwahati Bench of the CAT by filing the above OA. From the judgement it is seen that the applicant ~~was~~ was promoted on adhoc basis. It is also stated clearly that the adhoc promotion does not confer any right on them. Inspite of that clear instructions in the appointment order, the Guwahati Bench of the Tribunal had set aside the reversion order and allowed the applicant to continue as Head Clerk till the regular incumbent is posted. In view of the above ^{judgement} ~~situation~~, we feel that the applicant's case also should be dealt with accordingly.

7. In view of what is stated above, the impugned order dt. 20-2-95 is set aside. The instructions containing the adhoc promotion issued by letter dt. 20-5-94 is not relevant to this issue as this letter was issued much later after adhoc promotion of the applicant herein. If such a letter is not on record earlier to the promotion order, the letter dt. 20-5-94 cannot be used to

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revert the applicant by impugned order dt.20-2-95. The letter dt.20-5-94 will have only prospective effect. Hence it is not necessary for us to set aside that letter in this O.A.

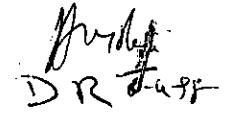
8. The applicant should be deemed to have been continued as Head Clerk from ~~the~~ 20-2-95 till he assumed charge as a regular Head Clerk on the basis of the telegram dt.28-2-96 at Visakhapatnam/ and that financial and other during / period he is entitled for the full benefits applicable to a Head Clerk.

9. With the above directions, the O.A. is allowed. No order as to costs.


(B.S.JAI PARAMESHWAR)
Member (J)

21498


(R.RANGARAJAN)
Member (A)


Dated: 2nd April, 1998.
Dictated in Open Court.

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Copy to;

1. The Secretary, Dept. of Science and Technology, New Delhi.
2. Surveyor General of India, Survey of India, Hatibarkara Estates, PB.NO.37, Dehradun, Uttar Pradesh.
3. Director, S.E.Circle, Survey of India, Survey Bhavan, R.R.Lab Post, Bhuvaneswar, Orissa State.
4. One copy to Mr.P.B.Vijaya Kumar, Advocate, CAT, Hyderabad.
5. One copy to Mr.Kota Bhaskara Rao, Addl.CGSC, CAT, Hyderabad.
6. One copy to D.R(A), CAT, Hyderabad.
7. One duplicate copy.

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II COURT

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M (J)

DATED: 21/4/98

ORDER/JUDGMENT

M.A/R.A/C.P. NO.

in

O.A. NO. 783/85

~~ADMITTED AND INTERIM DIRECTIONS
ISSUED~~

~~ALLOWED~~

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~DISMISSED FOR DEFAULT~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS~~

YLR

केन्द्रीय प्रशासनिक अधिकार
Central Administrative Tribunal
हैदराबाद आयरोड
HYDERABAD BENCH

121 APR 1998

Despatch

RECEIVED

Chancery/APPAL SECTION