

(25)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.1062/96.

Date of order : 5.9.1996.

Between

V.Vinod Kumar

.. Applicant

And

1. The Employees State
Insurance Corporation,
Rep. by the Director-General,
Kotla Road, New Delhi.

2. The Andhra Pradesh Employees'
State Insurance Corporation,
Rep. by Regional Director,
Regional Office,
5-9-23, Hill Fort Road,
Hyderabad-500463.

.. Respondents

Counsel for the Applicant .. Shri P.Naveen Rao

Counsel for the Respondents .. Shri N.R.Devaraj, Sr. CGSC

C O R A M

Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman

Hon'ble Shri H.Rajendra Prasad : Member(A)

Order

(Per Hon'ble Shri Justice M.G.Chaudhari : Vice-Chairman)

Heard Shri P.Naveen Rao for the applicant and Shri N.R.
Devaraj, Sr. CGSC for the respondents on notice.

2. The applicant was appointed to the post of LDC in the
Regional Directorate of Employees' State Insurance Corporation,
Hyderabad by order dated 15.2.94 purely on adhoc basis as a
stop gap arrangement as the appointment was not expected to last
for more than three months. The offer of appointment was itself
for adhoc appointment and it was clearly stipulated therein
that there was no chance of his appointment being made on
regular basis. The applicant accepted the appointment on these
terms and conditions.

3. The respondents have now initiated the process of selection
for regular appointment to the post of LDC vide memorandum
issued on 8.5.96 by the Regional Office of Employees' State
Insurance Corporation for open recruitment test.

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Although the candidates are required to be sponsored through Employment Exchange, the memorandum stipulates that LDCs working on adhoc basis may also be considered to appear for the examination.

3. The learned counsel for the applicant concedes that the applicant is eligible to apply in pursuance of this memorandum and is not required to be sponsored again through Employment Exchange as originally he had been sponsored through Employment Exchange. The case of the applicant, however, is that since he was ^{already once} sponsored through Employment Exchange and as he fulfils all the eligibility requirements under the present memorandum ~~also~~ he should not be required to go through ^{the} fresh selection process and he should be straightaway regularised on the basis of his original appointment. It is not possible to accept this case of the applicant as his contention is contrary to the terms and conditions of appointment. Moreover, the respondents have already exempted him from being sponsored again by the Employment Exchange. He cannot hope to be regularised by seeking to have the adhoc appointment converted into a regular appointment and contrary to the recruitment rules. We see no prejudice caused to him ^{as} if he is given an opportunity to appear at the selection in pursuance of the above ^{mentioned} memorandum dated 8.5.96.


4. Shri P.Naveen Rao sought to rely on the observation of the Hon'ble Supreme Court in the case of State of Haryana & Ors. Vs. Piara Singh & Ors. AIR 1992 SC 2130 at para 25 to contend that the respondents are obliged to consider the applicant for regularisation as he has been continued for sufficient length of time on adhoc basis and is otherwise eligible and that the respondents have failed to prepare ^a under the scheme for such a regularisation and consequently the applicant is entitled to be granted the relief ^{he has} prayed for. We may mention here that the relief prayed is that after quashing the memorandum dated 8.5.96 he be

regularised as LDC without subjecting him to any further test and before resorting to any fresh recruitment to the post of LDC with all consequential benefits.

5. Shri N.R.Devaraj, learned Sr. CGSC for the respondents on the other hand has drawn our attention to the ~~latest~~ decision of the Hon'ble Supreme Court in Director-General, E.S.I.C. & Anr. Vs. Sari Trilok Chand & Ors. rendered in Civil Appeal Nos.5302-5 of 1992 decided on 10.12.92. In that decision Their Lordships have referred to the contention based on the decision in Piara Singh's case and have been pleased to hold that it was not applicable to the facts in the case. The facts in that case were similar to the facts in the instant case. That case also related to the same authority i.e., E.S.I.C. The officials in those cases were appointed on casual or adhoc basis as LDCs on the express condition that their appointment was of a casual nature to continue only till candidates were available as a result of regular selection held for the purpose. The said officials had claimed that they should be regularised on the posts of LDCs notwithstanding the availability of regularly selected candidates for those posts. That contention was accepted by the Tribunal and relief was granted to those officials. Their Lordships of the Supreme Court, however, have allowed the appeal and have set aside the order of the Tribunal. The contention raised now in the instant case is the same which was not accepted by the Supreme Court. In view of this clear position we are afraid the grievance of the applicant in the instant case cannot be entertained.

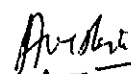
6. In the result, the O.A. is dismissed. No order as to costs.


(H. Rajendra Prasad)
Member (A).


(M.G. Chaudhari)
Vice-Chairman.

Dated: 5.9.1996.
Dictated in Open Court.

br.


Deputy Registrar (CC).

To

1. The Director General,
Employees State Insurance Corporation,
Kotla Road, New Delhi.
2. The Regional Director, A.P. Employees'
State Insurance Corporation,
Regional Office, 5-9-23, Hill Fort Road,
Hyderabad.
4. One copy to Mr. P. Naveen Rao, Advocate, CAT. Hyd.
5. One copy to Mr. N. R. Devraj, Sr. CGSC. CAT. Hyd.
6. One copy to Library, CAT. Hyd.
7. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 5-9 -1996

ORDER / JUDGMENT

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

in

O.A.No. 1062/96

T.A.No. (w.p.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn.

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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