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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.1412/97.

Dt. of Decision : 25-2-99.

M.Anand Kumar

.. Applicant.

Vs

1. The Asst. Registrar,
Income Tax Appellate Tribunal,
5-9-22/1-B, Shapoor House,
Adarshnagar, Hyderabad.

2. The Registrar,
I.T.A.T., Central Govt.
Office Building, 8th Floor,
Maharshi Karve Road,
Mumbai-20.

3. Miss.K.Susheela .. Respondents.

Counsel for the applicant : Mr.K.Venkateswara Rao

Counsel for the respondents : Mr.V.Bhimanna, Addl.CGSC.

CORAM:-

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

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

JK

...2/-

ORDER

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ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.))

Heard Mr.K.Venkateswara Rao, learned counsel for the applicant and Mr.V.Bhimanna, learned counsel for the respondents. Notice served on R-3. Called absent.

2. The applicant and R-3 were posted as adhoc LDC under R-2. Both of them ~~were~~ attended the written and typing test on 10-07-96. They were called for interview and they were appointed by the memorandum No.F.41Ad(ATH)96 dated 26-08-96 (Annexure-III). However the applicant was divested of his duties by an order order on 10-2-97.

3. This OA is filed for a declaration that the applicant is entitled to continue as LDC in the office of I.T.A.T., Hyderabad Bench in preference to the unofficial respondent (R-3) with all consequential benefits.

4. The main contention of the applicant is that he is senior to R-3 and hence if any reversion had to be made due to the non availability of the post the junior should be discharged. In ~~that~~ ^{the} case the applicant being senior he cannot be discharged and the R-3 being a junior should have been discharged.

5. No reply has been filed in this OA. We asked the learned counsel for the respondents to indicate the reason for discharging the applicant from service instead of R-3 if the R-3 is junior to the applicant as per the selection list for adhoc appointment.

6. The learned counsel for the respondents on the basis of the materials available with him submitted that there is no doubt ^{that} the applicant was shown above R-3 in the first list.

Jr

J

.3/-

The respondents

But that was reversed subsequently. ~~He had approached the~~ ^{to know the reason} authorities concerned for reversing the position of the applicant vis-a-vis R-3. But no reply has been received. Hence, he submits that he cannot indicate who is senior in the select panel for adhoc appointment. Further he submits that the department reserves the right to discharge an adhoc employee without any reason as incorporated in the appointment order.

7. We do agree that the respondents are at liberty to discharge an adhoc employee if his work is not found satisfactory or if there is proved allegations against him. But in this case no such materials has been produced before us. Further the principle of natural justice demands that the respondents should act following certain rules even for termination of an adhoc employee. They cannot discharge the adhoc employee without following any rules. The normal rule to be followed is that the junior adhoc employee should be discharged first in case ^{of} no work to continue the adhoc employee. In this case no materials has been produced before us to say that the R-3 is senior to the applicant herein.

8. The respondents further add that both the applicant and R-3 had been discharged from service as regular appointees have been posted. Hence, the question of deciding the issue does not arise. We do not agree with the submission of the respondents. They cannot irregularly discharge an adhoc employee and close the case just because a regular employee has been posted. If that rule is followed no adhoc employee can expect any justice from the government department. Hence we reject the contention out right.

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-4-

9. The only course left to us is to compensate the loss incurred by the applicant ~~in~~ ^{due to} his premature discharge. The way ~~to~~ compensate is to pay him from the date of ~~discharge~~ ^{a fact} till the ~~regular~~ employee is posted ~~in~~ in his place.

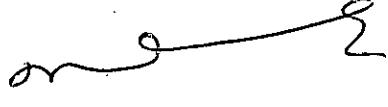
10. In the facts and circumstances of the case the following direction is given:-

The applicant should be paid an amount equal to the last pay drawn by him on the date of his discharge for the period from the date of discharge till the ~~regular~~ employee ^{a fact} has been posted ~~in~~ in the department ^{in his place}.

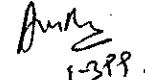
11. Time for compliance is two months from the date of receipt of a copy of this order. No costs.


(B.S.JAI PARAMESHWAR)
MEMBER (HUDL.)

25.2.99


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 25th February, 1999.
(Dictated in the Open Court)


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SPR

12/3/99

1st and IIInd Court.

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1. HDHND

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2. HHRP M(A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD.

3. HSSP M(B)

4.C.R.(A)

THE HON'BLE MR. JUSTICE D.H. NASIR:
VICE - CHAIRMAN

5. SPARF

THE HON'BLE H. RAJENDRA PRASAD
MEMBER (A)

THE HON'BLE R. RANGARAJAN
MEMBER (A)

THE HON'BLE MR. B.S. JAI PARAMESHWARI
MEMBER (B)

DATED: 25/2/99

ORDER/JUDGMENT

M.A./2.A/C.D.NB.

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D.A.NO: 1412/92

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

6 copies

