

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR
BENCH, JAIPUR.

O.A. No. 107/92
M.P. No. 76/93

Dt. of order: 15-3-93.

Panchu Lal Tanwar : Applicant

Vs.

Union of India & Ors. : Respondents

Mr. K. L. Thawani : Counsel for applicant

Mr. U. D. Sharma : Counsel for respondents

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Hon'ble Mr. Justice D. L. Mehta, Vice Chairman
Hon'ble Mr. B. N. Dhoundiyal, Member (A).

PER HON'BLE MR. B. N. DHOUNDIYAL, MEMBER (A).

This O.A. has been filed by Panchu Lal Tanwar, under Sec. 19 of the Administrative Tribunals Act, 1985 challenging non-extension of his tenure as Development Officer (Postal Life Insurance).

2. On 6.4.1992, this Tribunal passed an ad interim order restraining the respondents from reverting the applicant from the post of Development Officer (PLI). On 25.11.1992, while admitting the application, a direction was issued restraining the respondents from reverting the applicant from the present post during pendency of the O.A. without permission from the Tribunal. M.P. No. 76/93 has been filed by the respondents (UOI) requesting for vacation of the stay order. It was felt that as the issues involved are well defined, both the M.P. and the O.A. should be heard together and disposed of simultaneously.

We hereby proceed to do so.

3. Brief facts of the case are that the applicant was appointed as Sorting Clerk w.e.f. 24.11.74 and promoted as Development Officer (PLI) vide Post Master General Rajasthan Circle, Jaipur's Memo

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dated 24.11.86 on ad hoc basis. According to him he has been working on this post for 5½ years and his performance has been quite satisfactory. By the time this application was filed the annual extension usually given to him on this post had not been given and he was apprehending that he would be reverted after the end of the financial year 1991-92 i.e. after 31.3.92. From the counter filed by the respondents, it appears that he had not been given extension beyond 31.3.1992 and was reverted to the post of UDC on 21.4.92. However, he was reinstated as Development Officer(PLI) vide order dated 19.8.92. The applicant has prayed that the respondents be restrained from reverting him from the post of Development Officer (PLI) or reducing his pay and allowances and directed to continue his services as Development Officer(PLI).

4. The respondents have contended that the applicant was required to hold the post of Development Officer(PLI) for a period of 5 years and subsequent extension were to be granted to him on his procuring the amount of effective business prescribed by the Director General in his letter dated 19.7.1988. As he failed to do so, he was not granted any extension beyond 31.3.1992 and had reverted to his substantive post of UDC on 21.4.92.

However, he was reinstated as Development Officer (PLI) vide order dated 19.8.1992.

5. We have gone through the record of the case and heard the learned counsel for the parties. The applicant has contended that his appointment

as Development Officer was made under Rules 279/6 which provides for the method of recruitment to this post from amongst the field and ministerial staff of Post Offices. Having been regularly selected for the post and having been granted increments in a regular grade, he cannot be reverted while his juniors are being promoted. Respondents have on the other hand relied on the instructions contained in the letter dated 19.7.88 issued by the Director General (R-1) which provides that the tenure of a Development Officer will be initially for a period of 3 years from the date of appointment. It may be extended upto a maximum 7 years, if certain conditions are fulfilled i.e. if the business procured in the 3rd year is a minimum of Rs.50 lakhs, his tenure can be extended upto 5 years and if in the 4th & 5th years he secures a business of Rs.1 crore per annum, he may be given an extension for the 6th year. For getting extension for the 7th year, he has to secure a business of Rs.3 crores during the 6th year. No extension in any circumstances can be granted after the 7th year. The learned counsel for the applicant has argued that executive instructions cannot prevail over rules and the rules do not provide for any tenure. He has cited the judgment of another Bench of this Tribunal dated 20.11.91 in case of All India Association of Inspectors & Asstt. Supdts. of Post Offices & Anr.

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Vs. U.O.I. in O.A.No.645 of 1988, in which it was held that in the absence of amendment the rule will prevail. However, in para 2(a) 1 (vii) of Rule 279/6, it has been mentioned that

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"as far as possible only such volunteers should be considered who will be able to complete a period of 5 years on the posts without becoming due for promotion etc." This indicates that a time span of 5 years was envisaged when the Rules were framed. In the appointment letter dated 24.11.86, it has been clearly mentioned that the continuance of the applicant as Development Officer(PLI) will be subject to securing minimum business and a continuous review of their work with reference to the prescribed standard of output will be carried out and if their performance is not satisfactory they would be liable to be reverted without notice. It is also clear that the maximum period for which the tenure of Development Officer can extend is 7 years and the applicant has already been working at this post since 24.11.86. In terms of the circular dated 19.10.88, his term could be extended to 7 years only if he procured a minimum business of Rs.3 crores in the 6th year. According to his own admission, he had procured the business of only Rs.1.17 crores in 1991-92.

6. In the facts and circumstances of the case, we hold that the post of Development Officer(PLI) is a tenure post and the applicant has no right to continue at this post on a permanent basis.

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According to the circular of 19.7.88, the tenure will be invariably terminated on 30th June each year. The respondents shall be at liberty to take appropriate decision based on the performance of the applicant beyond this period i.e. 30.6.93. The M.P. and the O.A. are disposed of with these directions.

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7. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal)
Member(A).

D.L. Mehta
(D.L. Mehta)
Vice Chairman.