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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH

-JAIPUR.

Date of order: 27-3-1996

1. OA No.20/95

Lallu Lal

: Applicant

Vs.

Union of India and others.

: Respondents

2. OA No.24/95

Sardul Singh

: Applicant

Vs.

Union of India and others

: Respondents

3. OA No.25/95

Hem Singh

: Applicant

Vs.

Union of India and another

: Respondents

Mr. P.V.Calla, counsel for the applicants

Mr.U.D.Sharma, counsel for the respondents

CORAM:

HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)

HON'BLE SHRI RATTAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI RATTAN PRAKASH, MEMBER(JUDICIAL))

These three original applications are being disposed of by a common order as they arise out of similar facts and similar questions have been raised therein.

2. Facts which are not in dispute are that all the three applicants in these OAs are working in the office of the Director, Census Operations, Rajasthan, Jaipur, respondent No.2. Applicant Lallu Lal (in OA No.20/95) joined the respondent department on the

post of Compiler in the year 1972. He was thereafter appointed as Assistant Compiler in the year 1973 and was appointed as Draftsman vide order dated 30.6.73. After completion of probation period on the post of Draftsman he was declared permanent on the post of Draftsman vide order dated 11.12.1979. It is the case of this applicant that selection for the post of Artist were held and he was appointed on the post of Artist w.e.f. 11.12.1990 on the basis of the recommendations of the D.P.C. for the post of Artist and his pay was accordingly fixed. It is the grievance of this applicant that even though he completed the maximum period of probation prescribed under the rules, by impugned order dated 30.12.1993 ☐ he has been reverted from the post of Artist to the post of Draftsman and after reversion ^{been} his pay ~~has~~ re-fixed vide order dated 5.1.1994 (Annx.A-2).

3. In the case of Sardul Singh (applicant in OA No.24/95) also the applicant entered in service in respondent No.2's department as Assistant Compiler on 1.6.1970 and was appointed on the post of Draftsman vide order dated 28.3.1972 (Annx.A-3) on which post he was declared permanent vide order dated 29.1.1977 (Annx.A-4). Vide order dated 30.5.1981 while he was working on the post of Draftsman he was promoted on the post of Artist and was placed on probation which period he completed successfully. It is the case of this applicant that while he was working on the post of Artist he was considered for promotion on the next higher post of Senior Artist through a duly

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constituted DPC and was appointed on the post of senior Artist w.e.f. 11.10.1990 and thereafter also completed the probation period as Senior Artist successfully. It is the grievance of this applicant that while he was working on the post of Senior Artist he was reverted from the post of Senior Artist to the post of Artist vide the impugned order dated 30.12.93 (Annexure A-1) and his pay was accordingly re-fixed vide the impugned order dated 5.1.1994 (Annx.A-2).

4. In the case of Hem Singh (applicant in OA 25/95) he joined the respondent department as Assistant Compiler on 1.6.1970 and thereafter as Draftsman in September 1972. vide order dated 29.1.1977 he was declared permanent on the post of Draftsman and subsequently promoted on the post of Senior Draftsman vide order dated 30.5.1981. It is the case of this applicant that while he was working on the post of Senior Draftsman on regular basis, a departmental promotion committee was held for making appointment on the post of Senior Artist and accordingly he was appointed on the promotion post of Senior Artist through D.P.C. vide order dated 30.4.1991/1.5.1991. He completed his period of probation also successfully and thus worked on the post of Senior Artist w.e.f. 1.5.1991 without any break. It is the grievance of this applicant also that even after successful completion of his probation period he was reverted vide order dated 30.12.1993 to the post of Senior Artist to Senior Draftsman and his pay has also been

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re-fixed vide order dated 5.4.1994 (Annx.A-2).

5. All these applicants, therefore, have challenged the impugned orders of reversion as also re-fixation of their pay referred to above as being unjust, unfair and illegal and have sought quashing of them with the direction to pay them entire arrears of salary etc.

6. The respondents have contested these applications by filing written replies to which the applicants have not filed any rejoinder. The stand of the respondents has been that the appointment of the applicants on the promotion posts being for a specific period/duration, on the expiry of duration and abolition of promotion post, the applicants have been duly reverted to their substantive post. It has been submitted that for conducting census work every 10 years, a large number of posts are created by the Government purely on short term basis ranging from 2-3 years to attend to the increase volume of work which is required to be undertaken and completed in a time bound manner. For the 1991 census operations a number of short term posts in various categories were created by the Government and for that purpose one post of Senior Artist had been created by the Registrar General New Delhi vide order dated 21.9.1990 for the period 20.9.1990 to 28.2.1991 (Annx.R-1). The post so created in connection with 1991 census work were continued for the financial year 1991-92 vide letter dated 14.2.1991 (Annx.R-2) and

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were further continued upto 31.12.1993 vide letters of the Registrar General of India, New Delhi on 25.2.92 and 11.3.1994 (Annexure R-4 & R-5 respectively). These posts having been abolished w.e.f. 31.12.1993 vide letter dated 30.11.1993 of the Registrar General of India (Annx.R-5) the applicants consequent upon the abolition of the said promotion posts have been reverted from the Senior post to their substantive posts and consequently their grievances are without any substance and the OAS deserve dismissal.

7. We heard the learned counsel for the parties at great length and have examined the record in great detail.

8. The only point for determination in these applications is whether an appointment to a promotion post sanctioned for a specific duration/period enures in favour of the employee a vested right to continue to hold such a promotion post?

9. It has been vehemently argued by the learned counsel for the applicants that all the three applicants were duly appointed on the promotion posts after selection by a regularly constituted departmental promotion Committee. They further completed their probation period successfully and their pay was accordingly fixed on the promotion post. It has, therefore, been urged that having been appointed and promoted to promotion post through a regularly constituted DPC they cannot be

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reverted to the lower post without any notice. It has been urged that failure on part of respondents to revert the applicants without any show cause notice is against the settled principles of natural justice and against the law and hence not only the impugned (Annex.A-1) orders of reversion but the consequential orders of re-fixation of their pay on the lower post vide Annex.A-2 are liable to be quashed.

10. As against this, the argument of the learned counsel for the respondents has been that applicants are employees of the Census Department and their appointment to the promotion post in question has been only for a specific duration. Registrar General of Census Department having sanctioned the duration of the posts created in connection with 1991 census only upto 31.12.1993; the promotion posts stood abolished on that date and consequent thereto the applicants have been reverted to the lower post. It has also been argued that merely completion of the alleged probation period on the promotion post would not ipso-facto ripen into a legal right to hold the promotion post by the applicants. In any view of the matter, it has been urged by the learned counsel for the respondents that this controversy has now been settled by Hon'ble the Supreme Court in the case of Union of India Vs. Tara Chand Sharma, 1995 (31)ATC 758. It has, therefore, been urged that the applications deserve rejection.

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11. We have given anxious thought to the able arguments advanced on behalf of the learned counsel for both the sides. We are of the considered opinion that the issue raised in these applications is fully covered by the judgment and law laid down by Hon'ble the Supreme Court in the case of Union of India Vs. Tara Chand Sharma and others (supra) where the facts were similar. Rejecting the plea regarding satisfactory completion of probation period, the Hon'ble Supreme Court in the aforementioned case has observed:

"On the facts of this case, we have seen that the order of promotion itself in unmistakable terms indicated that the promotions were temporary and then the fact of abolition of posts created for fixed period is not in dispute. In any event, that fact of abolition of posts is now established by document produced before us, namely, the letter of Registrar General of India dated 30.11.1993 extracted above. In view of the established position that the posts temporarily created to which posts respondents were temporarily promoted having been abolished, the respondents cannot raise any objection for the consequential reversion orders. We answer the question posed in the beginning in the negative."

This observation of Hon'ble the Supreme Court applies with full force to the controversy in the instant case as well. In all the three applications which are in consideration here, the order of promotions issued in favour of the applicants indicates that their appointment on promotion to the senior post has been only on temporary basis. The Registrar General of Census Department having sanctioned continuation of these temporary promotion posts only upto the period of

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31.12.1993 as is evidenced by the communications dated 5.3.92, 5.3.1993 and 30.11.1993 filed by the respondents with their reply, on the expiry of the date of the sanctioned post which were held by the applicants; all the promotion posts stood abolished on 31.12.1993. Hence the claim made by the applicants to continue to hold the promotion posts even after the expiry of the sanctioned date is not tenable in the present applications as well.

12. Another argument advanced on behalf of the applicants to the effect that before reversion applicants should have been given a show cause notice is also not tenable in the eye of law. The reason is, as held by the Hon'ble Supreme Court in the aforementioned case of Union of India Vs. Tara Chand Sharma and others, the applicants herein having been temporarily promoted and that too for a specified duration and the posts having been abolished they cannot insist any claim for being called upon to show cause before being reverted to their substantive posts. In the instant case it has also been exhibited by the respondents in their reply that since the promotion of the applicants have been for a specified duration and after the expiry of the sanctioned period all persons who were given a temporary promotion were consequently reverted to their original position and thus their reversion to their original posts cannot be faulted.

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13. For all the aforesaid reasons, while answering the issue raised in this OA in the negative, we are of the considered opinion that there is no merit in these OAs which are hereby dismissed with no order as to costs, *at the stage of admission.*

14. A copy of this order be placed in each of the original application.



(RATTAN PRAKASH)
MEMBER (J)



(O.P. SHARMA)
MEMBER (A)