

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 3/5/2002

O.A. No. 504/1996.

Sudhir Gupta son of Shri Mahesh Chand Gupta, aged about 34 years, resident of 71, Usha Colony, Malviya Nagar, Jaipur at present working as LDC in the office of the Regional Office for Health and Family Welfare, Rajasthan of Government of India, K-10, Durgadas Path, Malviya Marg, C-Scheme, Jaipur 302 001, Rajasthan.

.. APPLICANT.

v e r s u s

1. Union of India through Director, Directorate General of Health Services Central Bureau of Health Intelligence, Nirman Bhawan, New Delhi-110 011.
2. Deputy Director (Administration), P.H. II, Directorate General of Health Services C.B.H.I., Nirman Bhawan, New Delhi-110 011.
3. Senior Regional Director, Health & Family Welfare, Regional Office for Health and Family Welfare, Government of India Rajasthan Regio, K-10, Durgadas Path, Malviya Marg, C-Scheme, Jaipur 302 001.

... RESPONDENTS.

Shri Rajendra Soni, counsel for the applicant.
Shri Bhanwar Bagri, counsel for the respondents.

CORAM

Hon'ble Mr. Justice O. P. Garg, Vice Chairman.
Hon'ble Mr. A. P. Nagrath, Administrative Member.

: O R D E R :
(per Hon'ble Mr. A. P. Nagrath)

The applicant was appointed as LDC in the Regional Office of Health and Family Welfare by



order dated 04.07.1989. In the cadre there was only one post of UDC, which was manned by one Shri Anil Sharma. When the said Shri Anil Sharma proceeded on deputation, the applicant was promoted on ad hoc basis as UDC against that vacancy by order dated 05.05.1992. This order stated, inter alia, that the promotion was for a period of six months or till Shri Anil Sharma returns or till further orders. Apparently Shri Anil Sharma continued on deputation and the tenure of the applicant against the post of UDC was extended from time to time. The last extension was granted w.e.f. 06.10.1994 to 31.08.1995 vide order dated 23.06.1995. By order dated 25.08.1995, the applicant has been ordered to be reverted back to the substantive post of LDC with immediate effect, consequent upon abolition of the post of regular UDC. It is under these circumstances, the applicant has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, with a prayer that the impugned reversion order dated 25.08.1995 be quashed and set aside and the respondents be directed to regularise the applicant on the post of UDC, from the year 1991 or at least w.e.f. 01.11.1994, the date DPC found him suitable.

2. We have perused the record of this case and heard the learned counsel for the parties.



3. Learned counsel for the applicant Shri Rajendra Soni assailed the action of the respondents of abolishing the post of UDC and submitted that this was a clear attempt of blocking all avenues of advancement of the applicant. His plea was that at the time of abolition of the post of UDC, the applicant was already holding that post and the post of LDC, in fact was lying vacant. If the department wanted to curtail the strength of the cadre, the post of LDC could have been abolished. His contention was that the applicant had been considered suitable by the DPC and his case was recommended for regularisation vide letter dated 01.11.1994 (Annexure A-8). His plea was that the applicant was the only candidate and already holding the post, when the DPC considered his claim.

4. The only ground on which the reversion has been defended by the respondents is that the post of UDC in fact has been abolished. Learned counsel for the respondents, Shri Bhanwar Bagri, emphasized that it was for the competent authority of the department to decide the requirements of staff and in the case of curtailment as to whichever post is required to be abolished. He stated that the action of the competent authority in abolishing the post of UDC cannot be faulted.

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5. We have considered the rival contentions very carefully. The only ground is that the post of UDC stands abolished. Since the vacancy of UDC does not exists any more, the applicant had to be reverted. We find from the facts and the documents brought on record that minimum requirement for promotion to the post of UDC is that one should have completed five years of service as LDC. The applicant had joined in July 1989 and obviously when the DPC considered his case on 01.11.1994, he had already become eligible for this post. He was promoted to officiate as UDC right from 05.05.1992 against the vacancy caused by deputation of Shri Anil Sharma. We see from the records that Shri Anil Sharma resigned and thus post of UDC which was still then manned by the applicant, even though on ad hoc basis, felt vacant. It is under these circumstances, his case was considered by the DPC and his case was recommended for regularisation. At this point of time, the tenure of the applicant on the post of UDC had already been extended w.e.f. 06.10.1994 up to 31.08.1995, While the applicant was still holding the post of UDC, the post came to be abolished by the impugned order. We are not able to appreciate the rationale of abolishing the post of UDC which was being manned by the applicant right from 05.05.1992 onwards. At this point of time the post of LDC was lying vacant and easily the same could have been abolished, if the

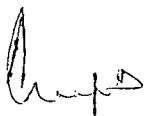
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department felt that curtailment in cadre was required. The Government on the one hand has consciously designed such Schemes and put them in place which provide for Assured Career Progression or Time Bound Promotion in categories where advancement is otherwise not possible. In this case there was only one post of UDC which the applicant was holding. In our view the act of abolishing this post was clearly misconceived and has no nexus whatsoever of achieving the objective of curtailing the cadre. The cadre could be curtailed by abolishing the post of LDC. We have no hesitation in saying that this action of abolishing the post has been taken totally without application of mind and is contrary to the well conceived policies of the government of providing adequate avenues of advancement to all its employees. This action of the department has in fact negated the said policy/totally blocked all avenues of advancement for the applicant. In such a situation we cannot support this action of the respondents. We would like to reiterate that the applicant was already holding the post almost for more than 3 years and had been found fit by the DPC in 1994. Action of reverting him is totally unreasonable and unjustified.

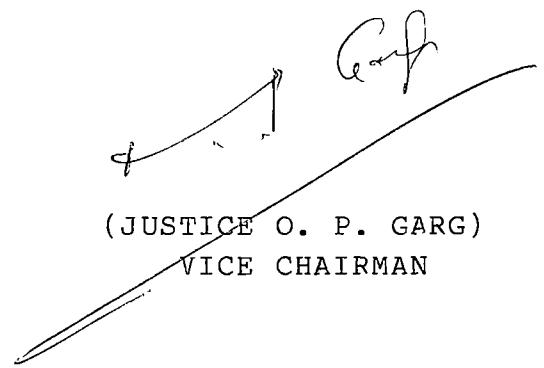
6. We allow this Original Application and quash and set aside the impugned order dated 25.08.1995.

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The applicant shall stand restored to the post of UDC as if this impugned order had not been issued. Respondents are however, free to abolish the post of LDC, if considered necessary. The applicant shall be entitled to pay and allowances of the post of UDC w.e.f. 25.08.1995 onwards. No order as to costs.



(A. P. NAGRATH)
MEMBER (A)



O.P.GARG

(JUSTICE O. P. GARG)
VICE CHAIRMAN