

13

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* *

Date of Decision: 9/11/2000

CA 320/98

M.L.Ajmera, Sr.Accounts Officer in the O/o Chief General Manager, Jaipur Telecom, Jaipur.

... Applicant

v/s

1. Union of India through Secretary, Ministry of Communications, Sanchay Bhawan, New Delhi.
2. Chief General Manager, Telecommunications, Rajasthan Circle, Sardar Patel Marg, Jaipur.

... Respondents

CORAM:

HON'BLE MR. S. K. AGARWAL, JUDICIAL MEMBER

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. P. P. Mathur,
proxy counsel for
Mr. R. N. Mathur

For the Respondents

... Mr. Hemant Gupta,
proxy counsel for
Mr. M. Rafiq

O R D E R

PER HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

In this application u/s 19 of the Administrative Tribunals Act, 1985, the applicant, M.L.Ajmera, has prayed for quashing and setting aside the order dated 4.8.98, at Annexure A/1, and for a direction to the respondents not to revert the applicant from the post of Senior Accounts Officer till a regularly selected candidate is available.

Legal 8

it appropriate to reproduce the same for better appreciation of the case :-

"(4) Procedure to be followed when disciplinary proceeding is initiated against a Government servant officiating in a higher post on ad hoc basis.— The question whether a Government servant appointed to a higher post on ad hoc basis should be allowed to continue in the ad hoc appointment when a disciplinary proceeding is initiated against him has been considered by this Department and it has been decided that the procedure outlined below shall be followed in such cases —

- (i) Where an appointment has been made purely on ad hoc basis against a short-term vacancy or a leave vacancy or if the Government servant appointed to officiate until further orders in any other circumstances has held the appointment for a period less than one year; the Government servant shall be reverted to the post held by him substantively or on a regular basis, when a disciplinary proceeding is initiated against him.
- (ii) Where the appointment was required to be made on ad hoc basis purely for administrative reasons (other than against a short-term vacancy or a leave vacancy) and the Government servant has held the appointment for more than one year, if any disciplinary proceedings is initiated against the Government servant, he need not be reverted to the post held by him only on the ground that disciplinary proceeding has been initiated against him.

Appropriate action in such cases will be taken depending on the outcome of the disciplinary case.

(G.I., D.P.T., O.M.No.11012/9/86-Estt.(A), dated 24th December, 1986.)"

6. The learned counsel for the respondents brought to our notice a circular of 1993 regarding dealing with a case of ad hoc promotion when an employee is being proceeded against in a departmental inquiry. We have carefully considered the circular and we find that it is no applicable to the case in hand.

Copy attached

16

- 4 -

7. In the light of the provision, reproduced above, we are of the view that the action of the respondents in reverting the applicant to his substantive post of Accounts Officer is not sustainable and, therefore, deserves to be quashed.

8. In the result, the OA is allowed and the impugned order dated 4.8.98, at Annexure A/1, is quashed and set aside. The applicant would continue to hold the post of Senior Accounts Officer till a regularly selected candidate is appointed on the post. No order as to costs.

Gopal Singh
(GOPAL SINGH)
MEMBER (A)

S.K. Agarwal
(S.K. AGARWAL)
MEMBER (J)