

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR

Date of Decision : 24.5.2002

O.A. No. 440/2000.

Rajesh Kumar Gangwal, aged about 38 years, by caste gangwal, resident of House No. 1127, Mahavir Park, Maniharon Ka Rasta, Jaipur, now-a-days working as L.D.C./Hindi Typist, office of Salt Commissioner, 2-A, Jhalana, Dungri, Jaipur.

... APPLICANT.

V E R S U S

1. Union of India through the Salt Commissioner, 2-A, Jhalana Dungri, Jaipur.
2. The Salt Commissioner, 2-A, Jhalana Dungri, Jaipur.
3. Assistant Salt Commissioner (Admn.), Office of Salt Commissioner, 2-A, Jhalana Dungri, Jaipur.

... RESPONDENTS.

Shri S. K. Jain, counsel for the applicant.
Shri S. M. Khan, counsel for the respondents.

CORAM

Hon'ble Mr. M. P. Singh, Administrative Member.
Hon'ble Mr. J. K. Kaushik, Judicial Member.

: O R D E R :
(per Hon'ble Mr. J. K. Kaushik)

Rajesh Kumar Gangwal has filed this Original Application for seeking a direction to the respondents to regularise the service of the applicant since the year 1982, the date of his appointment on the post of LDC/Hindi Typist with all consequential benefits, seniority, promotion etc., and also they may be restrained from terminating the service of the applicant.



2. The undisputed facts of the case are that the applicant came to be appointed vide letter dated 19.08.1982 on the post of Hindi Typist in the pay scale of Rs. 260-400, with usual allowances. The appointment was said to be temporary and on ad hoc basis. At one occasion, he was ordered to be terminated from service in the year 1983 and he had challenged before the Hon'ble Rajasthan High Court in SB (Civil) Writ Petition, which came to be transferred to this Tribunal and was registered as TA No. 550/96 and allowed by this Bench of the Central Administrative Tribunal, vide judgement dated 15.02.1989, against which an SLP was filed and the same was rejected. The applicant has been continuing on the same post as he was since his appointment.

3. It has also been averred that a similar case was filed by one Shri Deepak Sardana, who was also an ad hoc appointee. Deepak Sardana filed an Original Application No. 558/93 and OA No. 648/93 for seeking a direction for regularisation on the post of L.D.C. This Tribunal was pleased to allow the same and directed the respondents to consider the regularisation of the applicant on the basis of evaluation of his confidential report for past five years w.e.f. his initial appointment. The applicant also submitted a representation to the respondents and requested to give him the similar treatment and

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regularise his services on the post of L.D.C./Hindi Typist. He also submitted that his case was fully covered by the said judgement. However, the same did not yield any fruitful result.

4. The respondents have submitted a detailed reply to the Original Application and have contraverted the stand taken by the applicant in the Original Application. They have asserted that the applicant is an appointee of 1982 whereas Shri Deepak Sardana was appointed in the year 1971. Up to 26.07.1979, there was no requirement to notify the vacancies of L.D.C. to Staff Selection Commission (for short, SSC). However, after 26.07.1979, there was specific requirements that one has to qualify the SSC examination. Thus the case of the applicant is different from the case of Deepak Sardana. They have further mentioned that the applicant was given ample chances to qualify the SSC examination but he did not avail any opportunity. The applicant has submitted a rejoinder to the reply and have asserted that his case itself was taken with the Ministry for regularisation and he has completed 19 years of service and there was no need for passing the said examination. He is entitled for regularisation as has been held by Central Administrative Tribunal as well as the Hon'ble Supreme Court on the ground of working on ad hoc basis for a long period.

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5. We have heard the learned counsel for the parties and have perused the records of the case.

6. Learned counsel for the applicant has drawn our attention that the requirement of the passing of the SSC examination was there even in the year 1977 and our attention has been drawn to Annexure R-1, in this respect. However, it seems that the correct position was not brought to the notice of this Tribunal while deciding the case of Deepak Sardana. Further, the issue regarding the regularisation of services of the applicant in that OA on the ground of having continuously worked for a period of over 23 years has already been adjudicated upon, in view of the judgement of Apex Court and the judgement of various Benches of this Tribunal referred to Para 5 and 6 of the case of Deepak Sardana vs. U.O.I. (Supra), the Tribunal came to the conclusion as under :-

"6.....In any case, the fact is that the applicant has continued to serve the respondents and is even now so serving. In the totality of the circumstances discussed above as also a catena of judgments/orders mentioned in the preceding paragraphs, we come to a considered view that a humanitarian approach needs to be adopted against the peculiar background of this particular case and in the result respondents should regularise the services of the applicant. The second issue is accordingly answered in affirmative."

7. In view of the aforesaid judgement, we are of



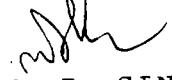
the considered opinion that without going into the controversy relating to the date by which the passing of the SSC examination was put as a condition for regularisation, the Original Application deserves to be allowed on the second issue i.e. regularisation on the ground of having continuously worked on the post of L.D.C. for a period of 18 long years on ad hoc basis alone and the said ground has been dealt in detail by this Tribunal in Deepak Sardana's case (Supra). We follow the same and are not inclined to repeat the merits and the law afresh.

8. In view of the aforesaid discussion, the Original Application deserves to be allowed in terms of order passed in Deepak Sardana's case (Supra). We, therefore, pass the order as under :-

" The Original Application is allowed and the respondents are directed to consider regularisation of the applicant on the post of L.D.C. w.e.f. his initial appointment on the basis of evaluation of his Confidential Reports for the past five years with consequential benefits. These directions may be complied with within a period of 6 months from the date of receipt of a copy of this order. Parties to bear their own costs."


(J. K. KAUSHIK)

MEMBER (J)


(M. P. SINGH)

MEMBER (A)