

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR. 41

Date of Decision: 2/11/2000

OA 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, Sanchar Bhawan, New Delhi.
2. Chief General Manager, Telecommunications, Rajasthan
Circle, Sardar Patel Marg, Jaipur.

... Respondents

FORAM:

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

HON'BLE MR. GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant

... Mr. P.F. Machur,
proxy counsel for
Mr. R.N. Machur

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.

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2. Applicant's case is that he is presently holding substantively the post of Accounts Officer in the Department of Telecommunication. He has been promoted on ad hoc basis as Senior Accounts Officer vide order dated 14.5.96, at Annex in A/2. This promotion has been continued for about two years, ofcourse with artificial breaks. But the respondents vide order dated 4.3.98 have reverted the applicant to the post of Accounts Officer. Feeling aggrieved, this application has been filed.

3. In the counter it has been stated by the respondents that the impugned order of reversion of the applicant has been passed on account of the initiation of a disciplinary case against him particularly in view of the fact that the applicant was promoted only on ad hoc basis and was not so promoted on substantive basis. It is, therefore, averred by the respondents that the applicant has no case and the OA deserves to be dismissed.

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

5. The only point to be considered in this case is whether a person officiating on a higher post on ad hoc basis can be reverted to his substantive post on initiation of departmental proceedings against him. This aspect has been dealt with in the 'Swamy's Complete Manual on Establishment and Administration' at page 215, 1999 edition. We consider

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It appears to represent 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.H.No.11012/9/85-Estt. (A), dated 24th December, 1986.)"

6. The learned counsel for the respondents brought to our notice a circular of 1992 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 not applicable to the case in hand.

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General

(S.K.AGARWAL)
MEMBER (J)

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Copying Clerk Section Officer (Judicial)
C.A.1. Jaipur Bench