CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH.

CIRCUIT COURT SITTING AT BILASPUR (CHHATTISGARH)

Original Application No. 478 of 2000
Original Application No. 502 of 2000

Bilaspur, this the 24th day of September, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri Anand Kumar Bhatt, Administrative Member

A) Original Application No. 478 of 2000 -

H.R. Mukherjee,
S/o. Shri B.R. Mukherjee,
Administrative Officer,
Regional Leprosy Training and
Research Institute, Raipur
Madhya Pradesh. ... Applicant

(By Advocate - Shri S. Paul on behalf of Shri Shyamal Mukherjee)

V e r s u s

1. The Union of India, through
The Secretary, Ministry of
Health and Family Welfare,
Nirman Bhavan, Maulana Azad
Road, New Delhi-110011.

2. Director General of Health Services,
Ministry of Health and Family Welfare,
Nirman Bhavan, Maulana Azad Road,
New Delhi-110011.

3. Director, Regional Leprosy Training
and Research Institute, Lalpur,
Raipur, Madhya Pradesh. ... Respondents

(By Advocate - Shri Om Namdeo on behalf of Shri B.da.Silva)

B) Original Application No. 502 of 2000 -

1. K.P. Dewangan, S/o. late
B.R. Dewangan, aged about
42 years, Accountant, Regional
Leprosy Training & Research
Institute, Raipur (M.P.).

2. M.C. Dhomane, S/o. late
Dinajee, aged about 42 years,
U.D.A., Regional Leprosy Training
and Research Institute,
Raipur (M.P.).

3. B.R.V. Sastry, S/o. Shri
S.R. Sastry, aged about 38

years, Cashier, Regional
Leprosy Training & Research
Institute, Raipur (M.P.). ... Applicants

(By Advocate - Shri S. Paul)

Versus

1. Union of India, through
its Secretary, Ministry of Health
& Family Welfare, Nirman Bhavan,
Moulana Azad Road,
New Delhi-110 011.

2. Director General of Health Services,
Ministry of Health & Family Welfare,
Nirman Bhawan, Moulana Azad Road,
New Delhi-110 011.

3. Director, Regional Leprosy
Training & Research Institute
(RLTRI), Lalpur, Raipur (M.P.). ... Respondents

(By Advocate - Shri Om Namdeo on behalf of Shri B.da.Silva)

COMMON ORDER (Oral)

Justice V.S. Aggarwal -

By this common order we propose to dispose of the 2 OAs No. 478/2000 and 502/2000.

2. The facts in OA No. 478/2000 are in a narrow compass that the Regional Leprosy Training and Research Institute, Raipur is an Organisation under the Union Ministry of Health and Family Welfare. The vacancy of the administrative officer arose on 4th August, 1995 with the death of Shri S.K. Mukherjee. Respondent No. 2 addressed a letter to respondent No. 3 seeking a proposal in the prescribed format for recruitment rules. It is not in dispute that no regular recruitment rules had been framed for the post of Administrative Officer. However in accordance with the draft rules the applicant was promoted on adhoc basis for a period of 6 months or till the recruitment rules for the post was notified. The applicant had taken charge of the post on 06.02.1998. Vide the order dated 22nd May, 2000 the applicant had been reverted and by virtue of the present

application the applicant seeks quashing of the order dated 22nd May, 2000 reverting him as an Accountant.

3. In the connected OA No. 502/2000 almost similar facts are been mentioned.

4. It is relevant to mention that as a result of reversion of Shri H.R. Mukherjee, in a chain reaction all other persons are being reverted in-seriatim. Therefore on almost parity of the facts the said petition has been filed for quashing of the order reverting them.

5. The petitions have been contested.

6. It is not disputed that in case Shri H.R. Mukherjee is reverted or the order of reversion is upheld in the chain reaction the applicants in OA No. 502/2000 necessarily have to suffer the reversion.

7. The learned counsel for the applicants contended that the order promoting the applicants clearly indicated that the applicants are promoted for a period of 6 months on adhoc basis or till the recruitment rules are effected. Till date the recruitment rules have not been framed and the applicants were allowed to work beyond six months. In this process the applicant could not be reverted.

8. In support of his contention the learned counsel relied upon the decision rendered by the Principal Bench of this Tribunal in the case of Dr. D.A. Lohar Versus Union of India and another in OA No. 557/1994 (decided on 23.11.1995).

9. We know that a decision is ~~precedent~~ precedent on the facts of that particular case. In the case of Dr. D.A. Lohar (supra)

the said applicant has been promoted on adhoc basis. The adhoc promotion had been extended from time to time and thereafter he was appointed on regular basis. The argument advanced in the said case was that he had been continuously officiating and thereafter regularly been appointed. The Principal Bench of this Tribunal relied on the decision of the Hon'ble Supreme Court in Direct Recruits' Class II Engineering Officers' Association Vs. State of Maharashtra, JT 1990 (2) SC 264, held that for purposes of In-Situ promotion the applicant shall be deemed to have been regularly appointed with effect from the date when they were appointed on adhoc basis.

10. Can the applicants take advantage of the ratio of this judgment? The answer would be in the negative. As yet the applicants have not been regularly appointed to any of the post. In the absence of the regular appointment they cannot take advantage of any service rendered on adhoc basis. Therefore the deicision rendered by the Principal Bench in the case of Dr. D.A. Lohar (supra) is clearly distinguishable.

11. The principle of law is well settled that no person has in-defeasible right to be promoted. He only has a right to be considered for promotion whenever the post is to be filled up. The applicants indeed has a right to be considered. It is informed that the recruitment rules have not been finalised and in that process the rights of the applicants have been put to jeopardy. However at present the order reverting the applicants cannot be held to be illegal for the reason that it was an adhoc promotion granted. Merely because the applicants worked for more than 6 months will not confer a right on them to seek ~~hold~~ holding of the post in perpe-

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tuity.

12. Before parting with the case it would be necessary to mention that the Department should in any case frame the recruitment rules so that necessary promotions can be effected in accordance with the said rules and the employees can be considered in accordance with the rules.

13. With these findings, we dispose of the present application holding, a) the applicants cannot seek re~~storation~~ instatement to the post which they were holding on adhoc basis and b) the respondents should consider framing of recruitment rules for the post. This exercise should preferably be completed within 6 months from today and thereafter the promotions can be considered as per the rules. OAs are disposed of.

(Anand Kumar Bhatt)
Administrative Member

(V.S. Aggarwal)
Chairman

पृष्ठांकन सं ओ/न्या............................जबलपुर, दि....................

(1) सचिव, ... जबलपुर

(2) ... काउंसल S. Mukerjee & S. Paul Advo

(3) ... काउंसल B. da Silva Advo (2)

"SA"

(4) ... जबलपुर

सूचना एवं आवश्यक कार्यवाही हेतु

6/10/03

Issued on 7/10/03