

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH ::: GUWAHATI-5.

G.A. NO. 156 of 1994.  
T.A. NO.

DATE OF DECISION 23-5-1997.

Shri Tarpad Bhattacharjee

(PETITIONER(S))

Shri B.K.Sharma.

ADVOCATE FOR THE  
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Shri A.K.Choudhury, Addl.C.G.S.C

ADVOCATE FOR THE  
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE-CHAIRMAN.  
THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman.



CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No. 156 of 1994.

Date of Order : This the 23rd day of May, 1997.

Justice Shri D.N.Baruah, Vice-Chairman.

Shri G.L.Sanglyine, Administrative Member.

Shri Tarpad Bhattacharjee,  
Son of late Akhil Chandra Bhattacharjee,  
presently working as Technical Assistant,  
(Sound) in the Regional Office, Department  
of Field Publicity, Hanagar, Arunachal Pradesh ..Applica

By Advocate Shri B.K.Sharma.

- Versus -

1. The Joint Director,  
Department of Field Publicity,  
Itanagar, Arunachal Pradesh.
2. The Deputy Director(Administration)  
Directorate of Field Publicity,  
New Delhi.
3. The Director, Directorate of Field  
Publicity, Government of India,  
East Block-4, Level-III, R.K.Puram,  
New Delhi-66.
4. The Union of India,  
represented by the Secretary,  
Ministry of Information & Broadcasting,  
Govt. of India, New Delhi . . . Respondent

By Advocate Shri A.K.Choudhury, Addl.C.G.S.C

O R D E R

BARUAH J.(V.C)

In this application the applicant has prayed for an order to set aside and quash the Annexure-C order of reversion dated 1.8.94 and also for a direction to the respondents to regularise the service of the applicant in the post of Technical Assistant(Sound) with retrospective effect etc.

2. The facts for the purpose of disposal of the application are as follows :

The applicant was initially appointed Lower Division Clerk (LDC for short) on 31.10.1968 in the office of the

Regional Officer, Directorate of Field Publicity, Government of India, Shillong. He was subsequently appointed on promotion to the post of Field Publicity Assistant vide Annexure-A order dated 8.9.1971. This promotion was on adhoc and purely temporary basis. The Field Publicity Assistant is a Group 'C' post which is higher than the LDC. The applicant worked for more than 7 years in the post of Field Publicity Assistant. Thereafter, he was given an adhoc promotion to the post of Technical Assistant (Sound) by Annexure-B official order dated 2.2.1979. In the said post he continued to serve for more than 15 years. By Annexure-C order dated 1.8.94 the applicant was reverted to the post of Field Publicity Assistant that too without giving any opportunity of hearing. Situated thus the applicant approached this Tribunal. This Tribunal by order dated 10.8.94 stayed the operation of the Annexure-C order of reversion dated 1.8.94 and on the basis of the interim order passed by this Tribunal the applicant is still continuing in the said post. Thus the applicant has by now completed more than 18 years of service in this post.

3. In due course respondents have entered appearance and filed written statement disputing the claim of the applicant. In the written statement the respondents have raised only one ground i.e. the appointment of the applicant to the post of Technical Assistant(Sound) was on adhoc and purely temporary basis and therefore the applicant has no right to claim the said post.

4. We have heard both sides. Mr B.K.Sharma, learned counsel for the applicant submits before us that after allowing the applicant to serve for more than 15 years suddenly without any reason, the authority most arbitrarily

reverted the applicant to the post of Field Publicity Assistant. This is not only arbitrary, but unreasonable and unfair. Besides the impugned order of reversion is devoid of any reason. Therefore, it cannot sustain. Mr Choudhury, learned Addl.C.G.S.C on the other hand has tried to justify the order of reversion by saying that the promotion was only on adhoc and temporary basis and therefore, he cannot claim to remain in the said post. The authority had all power to revert the applicant at any time that too without giving any reason.

5. On the rival contentions of the parties it is to be seen whether the order of reversion can sustain in law.

6. It is true that the adhoc appointment does not confer any right to the post but if the authority reverts a person after he is allowed to serve in the post for a considerable long period it will be unfair and unreasonable unless it is shown by the authority that such reversion was necessary and for compelling reasons. Mr Sharma has submitted that it is settled principles of service jurisprudence that when a person is serving for a considerable long period <sup>he</sup> /should not be disturbed. In this connection Mr Sharma has drawn our attention to the decision of the Apex Court in Narender Chadha & Ors. vs. Union of India & Ors. reported in 1986 (2) SCC 157. In the said decision the Apex Court held thus

"Where persons have been allowed to function in higher posts for 15 to 20 years with due deliberation it would be certainly unjust to hold that they have no sort of claim to such posts and could be reverted unceremoniously or treated as persons not belonging to the Service at all, particularly where the Government is endowed with the power to relax the rules to avoid unjust results. The Government was in need of their services and the petitioners have been holding these posts for long. It is not fair to say at this

distance of time that the Government was only keeping them in their posts as a matter of grace."

Mr Sharma has further drawn our attention to a decision of Calcutta Bench of this Tribunal in Upendra Nath Ojha vs. Union of India & Ors. reported in 1986(3) S.L.J (CAT) 358. In the said case also the Calcutta Bench of the Tribunal has held :

"Reversion of a temporary adhoc promotee after satisfactory service in higher post for a number of years is illegal, unfair and unreasonable."

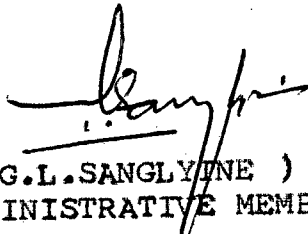
7. In the present case also the applicant was allowed to serve for a period of 15 years. That itself indicates that the authority is in need of the service of the applicant or any other person and it would have been just and proper for the authority to regularise the service of the applicant after completion of only few years. This was not done. The applicant was allowed to continue to serve in the post on adhoc basis for such a long period. It is not the case of the respondents that the post is no longer required by the department. Mr A.K.Choudhury, learned Addl.C.G.S.C has very fairly submits that the reversion was only on the ground that he was holding the post on adhoc basis. There was no other reason for such reversion. We feel that the order of reversion of the applicant after allowing him to continue for more than 15 years is unjust, unfair and unreasonable and such order cannot sustain in law. In view of the above, we set aside Annexure-C order of reversion dated 1.8.1994. The Apex Court in the Narendra Chadha & Ors. (supra) held that after allowing a person to continue for a considerable period he could not be treated as adhoc employee. In view of the above the authority shall act in pursuance of the principles laid down by the Apex Court.


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82

8. The application is allowed by setting aside Annexure order of reversion dated 1.8.1994 and direct the respondent to regularise the services of the applicant, if he is otherwise qualified, after considering his case in the light of the decision of the Apex Court. This must be done as early as possible, at any rate within a period of 3 months from the date of receipt of this order.

However, considering the entire facts and circumstances of the case we make no order as to costs.

  
( G.L.SANGLYNE )  
ADMINISTRATIVE MEMBER

  
( D.N.BARUAH )  
VICE - CHAIRMAN