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Central Administrative Tribunal, Principal Bench

Original Application No.1452 of 2003

New Delhi, this the 25th day of June, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.K. Naik, Member(A)

Shri Om Pal Singh, EO/AAO
S/o Shri Daleep Singh
R/o C-8-C, Gali No.5, Sarvodaya Colony,
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.... Applicant

(By Advocate: Shri V.P.S. Tyagi)

Versus

1. The EPF Organisation
Through its Central Commissioner,
Head Office Bhavishya Nidhi Bhawana
14, Bhikaji Cama Place,
New Delhi.
2. The Regional Provident Fund Commissioner(U.P.)
Employees Provident Fund Organisation
Nidhi Bhawan, Sarvodaya Nagar,
Kanpur (U.P.).
3. The Assistant Commissioner
Officer Incharge
Sub Accounts Office
Sector 20, Noida (U.P.).

.... Respondents

O R D E R(ORAL)

By Justice V.S. Aggarwal, Chairman

The applicant was promoted to the post of Enforcement Officer/Assistant Accounts Officer on 16/18.11.96 on purely temporary and ad-hoc basis. The operative part of the said order reads:

"The following Section Supervisors are promoted to the posts of Enf. Officer/Assistant Accounts Officer in the scale of Rs.1640-60-2600-EB-75-2900 on purely temporary and adhoc basis as a stop gap arrangements in view of administrative exigency for a period of 12 months or till regular incumbent is available, whichever is earlier from the date of assumption of charge at the place of posting against the vacancies available for D.R./E.Q. candidates."

2. On 1.11.2002, an order had been passed promoting the applicant as AAO on regular basis and he had been

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placed on probation for a period of two years.

3. By virtue of the present application, the applicant claims the following reliefs:

"(i) Issue appropriate direction to the Respondents for granting regularisation of applicants promotion w.e.f. the date it was initially granted as adhoc and treat the period of adhoc service as regular for all purpose, i.e. seniority and other consequential benefits.

(ii) Direct the Respondents to reckon and revise the interse seniority of the applicant and place him at the original serial no. above
(a) Shri A.B. Saxena (b) Shri Rajpal Singh
(c) Shri N.P. Khare in seniority list in (A-6)."

4. Learned counsel for the applicant strongly relies upon the findings of the Supreme Court in the case of Rudra Kumar Sain & ors. vs. Union of India & ors., 2000 (2) SC SLJ 168. In particular, our attention was drawn towards paragraph 20 of the same which reads:

"In the Service Jurisprudence, a person who possesses the requisite qualification for being appointed to a particular post and then he is appointed with the approval and consultation of the appropriate authority and continues in the post for a fairly long period, then such appointment cannot be held to be "stop-gap or fortuitous or purely ad hoc". In this view of the matter, the reasoning and basis on which, the appointment of the promotees in the Delhi Higher Judicial Service in the case in hand was held by the High Court to be 'fortuitous/ad hoc/stop-gap' are wholly erroneous and, therefore, exclusion of those appointees to have their continuous length of service for seniority is erroneous."

5. Perusal of the same clearly shows that the Supreme Court, so far as the first relief of the applicant that he should be regularised from the date he was initially promoted as adhoc, does not come to his rescue.





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Reasons are obvious. Not only the Supreme Court had not given any such finding but the facts clearly indicate that applicant was promoted on ad hoc basis as a stop gap arrangement. If the post was meant for a direct recruit or appointment has to be made in accordance with rules, the applicant cannot claim that he should be regularised from the back date. First relief, therefore of the applicant, is without merit.

6. So far as the second aspect of the relief is concerned, it is contended that applicant is losing his seniority and that his past service is not being counted. At this stage, we are not dwelling into this controversy because the persons against whom the applicant is claiming seniority have not been impleaded as respondents. The applicant, if so advised, may file another application if he chooses to implead them as party. O.A. is disposed of.

S.K. Naik

(S.K. Naik)
Member(A)

V.S. Aggarwal

(V.S. Aggarwal)
Chairman

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