

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 1525/2003

New Delhi, this the <sup>17</sup> ~~25~~ day of November, 2003

Hon'ble Shri Kuldip Singh, Member (J)  
Hon'ble Shri S.K. Naik, Member (A)

S.C. Ray  
F-17/12, Sector 8  
Rohini, Delhi-110085

.. Applicant

(Shri Arun Bhardwaj, Advocate)

versus

Union of India, through

1. Secretary  
Ministry of Consumer Affairs, Food & Public  
Distribution, Krishi Bhavan, New Delhi
2. S.B. Biswas, Director(SDF)  
Department of Food & Public Distribution  
Krishi Bhavan, New Delhi
3. R.P. Singhal  
Chief Director(Sufar)  
Dte. of Sugar, Krishi Bhavan, New Delhi
4. A.K. Srivastava  
Under Secretary  
Dept. of Food & Public Distribution  
Krishi Bhavan, New Delhi .. Respondents

(Shri N.K. Agarwal, Advocate)

ORDER

Shri S.K. Naik

By virtue of this OA, applicant has assailed the order dated 9.6.2003 vide which he has been reverted to the post of Deputy Director (Sugar Technical) [DD(ST), for short] w.e.f. 10.6.2003 from the post of Director (Sugar Technical). By an interim order passed by the Vacation Bench of this Tribunal, operation of the said order of reversion was stayed which has been continuing from time to time.

2. Briefly stated, the applicant while working as DD(ST) under the respondents-Directorate of Sugar, was given ad-hoc promotion to the post of Director (ST) w.e.f. 10.9.96 by an order of the same date and his term was

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extended from time to time till 9.9.98. By the impugned order dated 9.6.2003 ex-post-facto approval for the extension of his tenure as Director(ST) on ad hoc basis w.e.f. 9.9.1998 to 9.6.2003 on behalf of the President of India was granted and thereafter he stood reverted to his substantive post of DD(ST) with effect from 10.6.2003 and that is how the applicant is before us.

3. In their reply, the respondents contend that the applicant was holding the post of Director(ST) on purely ad hoc basis w.e.f. 10.9.96 which was extended from time to time, the last such extension order being dated 6.3.98. It appears that during the post-1996 period, there had been certain developments. The Expenditure Reforms Committee had opined that with the dilicensing of sugar, the post of Director(ST) was not serving any purpose and had become redundant. The Administrative Ministry was therefore struggling to restructure the Department and revise the R/Rules. It has been stated that at some point of time the concerned file also was misplaced. In this background of the matter, it was decided to discontinue the ad hoc appointment of the applicant in public interest and therefore the impugned order cannot be faulted. In view of this position, the OA be dismissed.

4. The main plank of attack of the applicant, during the course of arguments, is that there were two posts of Director(ST) of which one was abolished and he has been working against the lone and functional post of Director(ST) continuously from 10.9.96 and being at Sl.No.1 in the seniority list in the feeder cadre post,

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the post is to be filled 100% by promotion. On the other hand, it is the contention of the respondents that as per para 3.12.6 of the Hand Book on R/Rules, in cases where the method of promotion is by selection and the field of promotion consists of only one post, the method of recruitment by "Transfer on deputation including short term contract/promotion" is prescribed so that the departmental officer is considered along with other outsiders. If the departmental candidate is selected for appointment to the post, it is to be treated as having been filled by promotion. The post of Director(ST) in the pay scale of Rs.12000-16500 (selection post) is the lone functional post in the feeder grade of the post of Chief Director(Sugar) and if the R/Rules be amended, the method of recruitment would have been composite. Respondents have also averred that the various allegations made by the applicant about misplacing of the relevant file and against other officers of the Department are baseless and have no relevance to the main issue involved.

5. We have heard the learned counsel for the parties and carefully perused the material available on record. The counsel for the respondents has drawn our attention to the report of the Expenditure Reforms Commission relating to the Department of Food & Public Distribution and particularly to para 3.17 of its recommendations which reads:

"In the existing set up, Sugar Division is headed by a Joint Secretary, Chief Director of Sugar and two Directors dealing with policy, and sugar development fund respectively, report to him. Once the decontrol of sugar takes place, as suggested above, the Directorate of Sugar would no longer be necessary. Even now, with licensing having gone,

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Director(Sugar Technical) and staff under him in the Directorate of Sugar are not serving much purpose. The Directorate can therefore be wound up."

He has further drawn our attention to the notings from DoPT file dated 21.5.2003, wherein while extracting the aforesaid policy decision, it has been categorically concluded that "since the post is functionally defunct even if it is still to be formally abolished, there is no justification for continuation of ad hoc appointment any further and therefore, ad hoc appointment of Shri S.C. Ray shall be discontinued forthwith". It is pursuant to this decision, that the respondents had to resort to issuance of the impugned order, the counsel would contend.

6. Besides, respondents' counsel has also drawn attention to the law laid down by the Hon'ble Supreme Court in a catena of judgments on the matter of ad hoc promotion, particularly in State of Orissa & Anr. Vs. Dr. Pyari Mohan Misra wherein it has been held that "Mere prolonged continuance of ad hoc service does not ripen into a regular service to claim permanent or substantive status".

7. In view of what has been discussed above, we do not find any illegality in the action taken by the respondents by issuing the impugned order as alleged by the applicant. Necessarily, the OA must fail and is accordingly dismissed. Interim order dated 13.6.2003 stands merged with the main order. No order as to costs.

Naik  
(S.K. Naik)  
Member(A)

Singh  
(Kuldeep Singh)  
Member(J)

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