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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1610/2003

This the 26th day of June, 2003

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Mrs. Neena Gandhi @ Kum. Neena Gulati
W/O Anil Gandhi.
R/O 2/214, Subhash Nagar,
New Delhi.

... Applicant

(By Shri Bharat Bhushan, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Finance,
Department of Economic Affairs
(Banking Division), Jeewan Deep Building,
Parliament Street, New Delhi.

2. Registrar,
Debt Recovery Tribunal-II Delhi,
'Sanskriti Bhawan', Jhandewalan,
Desh Bandhu Gupta Road,
New Delhi.

... Respondents

O R D E R (ORAL)

Here is an application made by applicant challenging Exhibit A-1 dated 20.3.2003 whereby her representations dated 21.2.2003 and 27.2.2003 made in pursuance of order dated 5.2.2003 of C.A.T.. Principal Bench in OA-1715/2002 have been rejected stating that her services cannot be regularised/restored. Applicant has also challenged Exhibit A-2 dated 3.4.2002 whereby respondent No.2 has dispensed with the services of applicant as Lower Division Clerk (Ad hoc) w.e.f. 3.4.2002 afternoon.

2. The learned counsel of applicant stated that applicant was recruited as LDC on ad hoc basis for 89 days initially on 4.4.2001 on being sponsored by the

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employment exchange and also on being successful in the trade test held by respondent No.2. On 13.7.2001 the period of appointment of applicant was extended by nine months, i.e., up to 3.4.2002. The learned counsel stated that applicant is entitled to holding the post of LDC in Debt Recovery Tribunal (DRT)-II, Delhi on regular basis on exercising option in terms of Rule 5 of the recruitment rules published on 11.3.2002. However, applicant's services have been terminated from 3.4.2002 without allowing her to exercise option under Rule 5. Earlier on applicant filed OA-1715/2002 which was decided on 5.2.2003 (Exhibit A-16). According to the learned counsel, the Tribunal directed respondent No.2 to consider the consolidated representation-cum-option of applicant as she was one of the candidates who could be said to be holding the post of LDC and entitled to exercise option under Rule 5. However, respondents have rejected applicant's candidature ignoring the Tribunal's directions and invoking Rule 5 which, according to the learned counsel, is not applicable to the facts of this case. The learned counsel contended that order dated 20.3.2003 (Ex. A-1) should be set aside and respondents should be directed to reinstate applicant in service as LDC on regular basis, with consequential benefits.

3. It is appropriate to reproduce the provisions of Rules 5 and 7 of the Debts Recovery Appellate Tribunal-II, Delhi (Group "C" and "D" posts) (Non-Gazetted) Recruitment Rules, 2002 .

1/2 "5. Initial Constitution. ~ The employees holding the posts mentioned in the



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Schedule to these rules in the Debts Recovery Appellate Tribunal-II Delhi on the date of commencement of these Rules shall be deemed to have been appointed at the Initial Constitution stage of the said posts, if so opted within 30 days of publication of these rules. The regular service rendered by them before the publication of these rules shall count for the purpose of probation period, qualifying service for promotion, confirmation and pension."

"7. **Regularisation/Absorption.** - (1) Notwithstanding anything contained in the provisions of these rules, the persons holding the posts in the Debt Recovery Appellate Tribunal-II Delhi, on the date of commencement of these rules, either on transfer or on deputation basis and who fulfil the qualifications and experience laid down in these rules and who are considered suitable by the Departmental Promotion Committee shall be eligible for regularization/absorption in the respective grade subject to the condition that such persons exercise their option for the absorption and that their parent departments do not have any objection to their being absorbed in the Tribunal.

(2) The seniority of officers mentioned in sub-rule (1) shall be determined with reference to the dates of their regular appointment to the post concerned.

Provided that the seniority of officers recruited from the same source and in the posts held by them in the parent Department shall not be disturbed.

(3) The suitability of persons for absorption may be considered by a Departmental Promotion Committee."

4. Perusal of Exhibit A-6 dated 4.6.2001 by which applicant was appointed as LDC indicates that she had been appointed as LDC on ad hoc basis for a period of 89 days. It was made clear that her appointment was purely in the exigencies of service for a period of 89 days or till such time the regular appointee to be recruited on deputation basis joined in her place, whichever was earlier. Her services "are liable to be terminated at any time either on completing 89 days or even earlier

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also and no notice to the same is required to be given to her. She will not be be entitled to have any claim for regular appointment on the basis of this appointment." On 13.7.2001 by Exhibit A-7 the period of her appointment was extended again on ad "hoc basis" for a further period of nine monnths up to 30.4.2002. The terms and conditions mentioned in Ex. A-6 by which she was originally appointed remained the same. It is clear from these two documents that applicant had been appointed on an ad hoc basis. Her term was extended beyond 89 days again on ad hoc basis. Her services could be terminated at any time and it was clarified that she was not entitled to claim regular appointment on the basis of such appointment. OA No.1715/2002 was disposed of vide order dated 5.2.2003 directing respondents to consider applicant's consolidated representation containing the option.

5. Provisions of Rule 7 ibid provide for regularisation/absorption of such officials only who were holding the post either on transfer or on deputation basis and who fulfilled the qualifications and experience laid down in these rules. Only such persons were to exercise option for absorption and could be absorbed only on receipt of no objection from their parent departments. Applicant had been recruited on being sponsored by the employment exchange on ad hoc basis. She did not join the DRT either on transfer or on deputation. Obviously the provisions of Rule 7 do not apply to her case. The provisions of Rule 5 relate to the initial constitution of the posts mentioned in the schedule of the Rules ibid.

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recruitment on the post of LDC is made by respondent No.2.

6. The OA is disposed of with the above observations. No costs.



(V. K. Majotra)
Member (A)

/as/