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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.3131/2003

Monday, this the 5th day of January, 2004

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

Shri Narinder Kumar Tyagi
s/o Late Shri K.L.Tyagi
r/o 52, Chhattarpur Village
New Delhi-74

...Applicant

(By Advocate: Shri Yatish Mohan)

Versus

1. Govt. of NCT of Delhi
through Lt. Governor
Raj Niwas, Delhi-54
2. The Chief Secretary
Govt. of NCT of Delhi
Secretariat, IP Extension
New Delhi
3. The Secretary (Services)
Govt. of NCT of Delhi
Secretariat, IP Extension
New Delhi
4. The Secretary, General Administration
Department Government of NCT of Delhi
Secretariat, IP Extension
New Delhi
5. The Secretary (Law)
Government of NCT of Delhi
Secretariat, IP Extension
New Delhi

...Respondents

O R D E R (ORAL)

Justice V.S. Aggarwal:

As per the Recruitment Rules for the post of Assistant Legal Adviser with three years of service in the grade rendered after appointment on regular basis and possessed degree of law, the applicant was appointed on deputation on 6.10.1998 as a result of the following order:-

"Consequent upon his selection by the Pr. Secy. (GAD), Shri N.K. Tyagi, Gr. II

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(DASS) is hereby appointed to the post of Legal Assistant in the Law, Justice and Legislative Affairs Department in the pay Scale of Rs.5500-9000/- (Revised) (Plus usual allowances admissible under rules), by transfer on deputation basis.

2. The period of deputation, in the first instance, will be for a period of one year from the date of joining of the post of Legal Assistant.

3. The Services of Shri N.K. Tyagi will be governed by the relevant rules and orders in force from time to time." Subsequently, by a fresh order dated 12.12.2002, he was absorbed as Legal Assistant and appointed as a result of the following order:-

2. Applicant's learned counsel contends that he has rendered more than three years of service as Legal Assistant and, therefore, he is eligible to be considered for the post of Assistant Legal Adviser and in any case his service from 6.10.1998 should be considered as regular service as Legal Assistant.

3. We have carefully considered the said submissions. The initial order, by virtue of which the applicant was taken on deputation, clearly states in an unambiguous terms that he was taken on deputation rather than appointment was made on regular basis. Otherwise also, as per the Recruitment Rules, the Lt. Governor, Delhi is the appointing authority. The order appointing the applicant on deputation is passed by the Pr. Secretary (GAD) and not by the appointing authority. Therefore, the said order cannot confer on the applicant the status of regular appointment. He was appointed only on 12.12.2002 and from that date, he can only count the necessary years as regular appointment.

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4. Taking stock of these facts, the pleas raised by the applicant must be held to be devoid of any merit. OA must fail and is dismissed in limine.

S. K. Naik

(S. K. Naik)
Member (A)

/sunil/

V.S. Aggarwal

(V.S. Aggarwal)
Chairman