

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**O.A. No. 2372/2019
M.A. No. 3106/2019**

New Delhi, this the 18th day of November, 2019



**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Radhey Shyam Gangwar
 Aged about 38 years
 S/o Shri Het Ram
 R/o H.No.497, 2nd Floor
 Niti Khand-III, Indrapuram
 Ghaziabad, Uttar Pradesh-201014
 Post : Assistant Director (Safeguards),
 Group 'A'
 Category : Absorption/Confirmation.

.. Applicant

(By Advocate : Shri Jasbir Singh Malik with
 Shri Manish Kumar Tirathpuria)

Versus

National Capital Region Planning Board
 1st Floor Core-IV B
 India Habitat Centre
 Lodhi Road, New Delhi-110003
 Through its Member Secretary.

.. Respondent

(By Advocate : Shri A.K. Aggarwal)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman**

The respondent herein issued an online advertisement dated 06.02.2015, inviting applications for the post of Assistant Director (AD) (Safeguards), on temporary basis for a period of three years. The applicant and various others responded to the advertisement. Through an order dated 16.07.2015, the applicant was appointed as AD (Safeguards) in the pay scale of Rs.15600-39100 with Grade Pay of Rs.5400 on "Short Term Contract basis" till November, 2016. Thereafter, it was extended twice, to be in force upto 30.08.2019.

2. The applicant states that the post was initially existed on temporary basis and, thereafter, it was sanctioned on permanent basis. He contends that he has been subjected to the selection for the post by a Committee and since the post has become permanent, he is entitled to be absorbed against that. Reliance is also placed on certain orders passed by the Government, at different points of time. Another grievance of the applicant

is that the respondents are not extending his term, even while continuing the others who are similarly situated.



3. On behalf of the respondents, a detailed counter affidavit has been filed. It is stated that the appointment of the applicant was purely on "Short Term Contract basis" and that he is not entitled to be continued beyond the term. It is further stated that once the post has become permanent, procedure for regular appointment is in process; and the applicant has no right to be regularised in that post.

4. We heard Shri Jasbir Singh Malik, learned counsel for the applicant and Shri A.K. Aggarwal, learned counsel for the sole respondent.

5. The Advertisement itself was for appointment against temporary post and for appointment on short term contract. It appears that the respondent was not properly advised in the context of creation or handling of the post. The post of AD (Safeguards) was available only on temporary basis. In case, they wanted to make



appointment to that post, it should be purely on contractual basis, subject to the terms to be incorporated in the order itself. Instead, not only the pay scale was attached to that post, but also it was treated as Group 'A' post and the candidates were put on probation. Secondly, the CCS (CCA) Rules were also made applicable to such appointment. There is a serious anomaly in this behalf.

6. Be that as it may, once the appointment of the applicant was purely on "Short Term Contract basis" for a specific period, he cannot claim the benefit of regularisation to that post, against which he was appointed on contract basis. Such facility is only in the case of Group 'D' or Class IV posts. Even that was denounced in **Secretary, State of Karnataka & others v. Umadevi & others**, (2006) 4 SCC 1. Further, it was not contractual appointment but ad hoc appointment.

7. Once the post was made permanent, the procedure for filling up the same has to be followed. It is not known whether the respondents have framed the recruitment rules for the post or it has adopted the rules applicable to

any other organisation. As and when steps are taken, the applicant can also respond to the advertisement.



8. This much, however, can be said that till the appointment to the post of AD (Safeguards) is made on regular basis, the applicant cannot be replaced by another contractual employee. If there exists work for the post, the applicant needs to be continued and he cannot be replaced by others. Secondly, if any contractual employee, who is appointed along with the applicant to the post, is being continued, the applicant also needs to be continued.

9. With these observations, the O.A. is disposed of. In the event of regular appointment being made, the case of the applicant shall also be considered, in case he comes within the parameters of being extended the benefit of relaxation and exemption. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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