

Suresh Chandra Jha Vs. Lt. Governor of Delhi, Delhi

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Court : Central Administrative Tribunal CAT Delhi

Decided On : Aug-06-2008

Judge : M R Vice, C P Ramesh

Appellant : Suresh Chandra Jha

Respondent : Lt. Governor of Delhi, Delhi

Judgement :

1. A writ petition filed as CWP 4066 of 1996 had been transferred to this Tribunal by order of the Hon'ble High Court dated 09.10.2007. The respondents had taken a stand that even at the time when the writ petition had been filed, it was belated by normal standards, and by the further passage of time, of about 12 years, the claims have become stale and not reckonable by applying normal standards. There is a technical objection also raised. Persons, who might be affected, have not been brought to the array of parties and the relief if granted would have affected their settled rights. On the face of such objections, however, we will examine the claims that have been put in and highlighted by Mr. Padma Kumar, counsel appearing on behalf of the applicant.

2. At the time of filing the writ petition in 1996, the applicant was working as a UDC in the Electrical Circle-I of the Delhi Development Authority. His prayer was that a seniority list issued in 1991 required to be set aside, and the applicant had to be given seniority and regularization from the date of his initial appointment i.e.

24.12.1970. By an amendment, it had been further submitted that the claims as above should at least be recognized from the date, he had been permitted to cross the Efficiency Bar, namely, 1976. The claim has been presented in the following background.

3. On an ad hoc basis, applicant had been appointed as LDC for a period of three months. It had been indicated that it was purely temporary and on ad hoc basis but after a few months on 13.5.1971, he had been advised that service was being extended for a further period of three months, which was to end on 23.06.1971. In the course of his service as above, Annexure `B order had been issued to him on 01.07.1971, which instructed him to appear for an interview for appointment to the post of LDC. The case of the applicant is that at no time thereafter, he was advised the result of the interview but, however, he had been continuing service uninterruptedly.

4. On 11.04.1978, the Executive Officer of DDA, by Establishment Order dated 11.04.1978, had advised the applicant that he had been allowed to cross the Efficiency Bar at the stage of Rs. 290/- effective from 01.12.1976. However, this was not exclusive to the applicant since the order indicates that altogether sixty six persons had been granted such benefits, the date ranging from 01.08.1976 to 01.10.1977. After a few personnel, he was placed at Item No. 9 in a list of 19 persons, who got such a benefit. It is admitted that he had been promoted as UDC on 30.06.1981. Also it is evident that seniority list, published from time to time, showed his position of seniority, in LDC and UDC cadre, and with reference to the proceedings, which had come to be issued, referred to above.

5. The applicant, however, had made a submission that in view of his uninterrupted service, the interview which had been held on 5.7.1971, and the permission to cross Efficiency Bar coupled with his regularization as LDC from 19.04.1978, a case existed for regularization from the date of his engagement. According to him, by Annexure `H' dated 13.06.1991, he had been informed that the matter could not be gone into since it was sub judice and his case will be considered only after the decision of the Court was received. But since no advice, he had been constrained to file the writ petition. As pointed out earlier, the prayer

was to antedate his regularization and to ensure that the seniority list reflected, a regularization taking notice of his uninterrupted appointment.

6. The objection, however, has come, in the reply affidavit, which alleges that the writ petition was highly belated as the applicant had been attempting to unsettle the seniority position which had attained finality in the cadre of LDC, as well as in later list of the Upper Division Clerks, drawn up as on 15.06.1990. It would have been impermissible for him, to reagitate the matter when such final lists were in operation, al through. The reference made to the Court case in Annexure `H' had come to an end as early as on 17.7.1992, and similar claim urged by his office colleagues, who had been appointed on ad hoc basis in the year 1970 was found not tenable by the civil court.

7. Mr. Padma Kumar had, however, referred to two decisions rendered by the CAT, respectively dated 02.06.1992 and 25.5.1993 by Calcutta and Bangalore Bench in OA 1057 of 1988 and OA 384 of 1992. It is contended that when a person is permitted to cross Efficiency Bar in the course of his service, there is no justification for the respondents thereafter to contend that he is not regularized even at that point of time. It is further submitted that the applicant had been invited for interview in the year 1971 as he alone was in possession of minimum obligatory qualification, and was, therefore, entitled to a special treatment. However, the answer of Mr. D.S. Mahendru, counsel appearing on behalf of the respondents, is that the applicant had not qualified in the interview, and reference to the averments has been made answered in the reply statement filed by the DDA. He also submits that the authority cited would not have had application strictly on the facts of the present case. This is because, a few days after the orders permitting him to cross the Efficiency Bar, along with others, he had been regularized. But that was no justification for him to contend that he had been appointed to a temporary post on ad hoc basis or that he was entitled to regularization with effect from that date. Counsel also points out that he has not been able to rest his contention on any rule or proceedings authorizing such claims.

8. The claim for regularization, from the date of his first engagement, may not be permissible because applicant had not competed in a regular selection when first engagement had come. No arguments were also fielded that the regular method of selection had been followed before his earlier engagement. The attendance in the interview also may not give him any legal rights as no selection had followed. It is also evident that the applicant had not bothered to challenge the seniority as assigned to him, after the regularization, when the list of LDCs had been drawn up. When obviously earlier promotion was given to his seniors in the list as UDC, he had raised no objections. A suit filed by some other person also could not have conferred on him any benefits to contend that there was no laches.

9. Also evident is that he had not impleaded persons who might possibly be affected in case the reliefs were granted. Though a technical objection, we are bound to take notice of it. No satisfactory reason is given for this conduct. The stand of the applicant is that if a declaration is given, the respondents could have given notice of such claims to his colleagues, about such proposals. The escape route method suggested as above may not in the least enable for us to suggest that the matter requires to be given fresh attention. We feel that the applicant does not have a prima facie case. TA is, therefore, dismissed. No costs.

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