

Supreme Court of India

Registrar General Of India And ... vs V. Thippa Setty And Ors. on 19 January, 1996

Equivalent citations: (1998) 8 SCC 690

Bench: A Ahmadi, N Singh, S V Manohar

ORDER

1. Special leave granted.

2. We have heard counsel for both sides and perused the orders of the Tribunal dated 16-12-1991 and 19-2-1993. By the previous order, the Tribunal's direction was to regularise the respondents with effect from the date of promulgation of the recruitment rules or from the date of their appointment, depending on the seniority list. That was a direction which was a flexible one leaving it to the management to consider from what date regularisation should take effect. In pursuance of the said direction, on the new recruitment rules being promulgated on 11-5-1985, the regularisation was given effect from that date. However, in the subsequent order passed by the Tribunal on 19-2-1993, the Tribunal has directed that they should be treated as having been conferred regular status with effect from 5-2-1981, that is, the date of their entry into service as InvestigatOrs. It must be remembered that they had entered as ad hoc appointees and the question was whether they should be regularised in service since they had worked as ad hoc employees for a sufficiently long time. If the ad hoc service is regularised from the back date in this manner, it will disturb the seniority of regularly appointed employees in the cadre and, therefore, ordinarily the regularisation must take effect prospectively and not retrospectively. It must also be borne in mind that ad hoc appointees, casual labour and daily-rated persons are not subject to strict discipline of service and it is a matter of common experience that their attendance is very often not regular and at times they do not even meet the qualification for appointment since they are taken on ad hoc basis. These deficiencies are overlooked by way of granting of relaxation and, therefore, care must be taken to see that they do not upset the seniorities of regular appointees. Whether they qualify in a given case or not is not relevant but what is relevant is that regularisation should be prospective and not retrospective as the chances of their upsetting the seniorities cannot be overlooked. The Tribunal must take care to see that when they pass orders of regularisation from retrospective dates, those who are likely to be affected on account of that order are not before that court and unwittingly their careers are not adversely affected. Ordinarily, therefore, the regularisation must be prospective.

3. For the above reasons, we set aside the impugned order of the Tribunal and restore the order of regularisation passed by the appellant. We allow the appeal accordingly with no order as to costs.

4. A copy of this judgment must be sent to the Chairman of the Central Administrative Tribunal for circulation.