

A STATE OF ORISSA AND ANR.

v.

DR. PYARI MOHAN MISRA

JANUARY 6, 1995

B [K. RAMASWAMY AND N. VENKATACHALA, JJ.]

C *Service Law : Appointment on ad hoc basis to the post of Director, Fisheries—Subsequent policy decision of Government to appoint IAS Officer to man the post—Reversion of ad-hoc appointee—Validity of—Held : Reversion legal and valid.*

The Respondent was appointed as Director of Fisheries on August 12, 1971 on *ad hoc* basis. By order date July 22, 1972 he was asked to continue until further orders. The State Government had taken a policy decision to appoint an I.A.S. Officer to man the post of Director, Fisheries.

D By notification dated March 18, 1977, the Government had reverted the respondent to the post of Joint Director. The respondent voluntarily retired from service on December 16, 1977.

E In this appeal by the State Government against the judgment of the Tribunal, the validity of the reversion of the respondent was in issue.

F On behalf of the respondent, it was contended that he was appointed after consultation and with concurrence of the Public Service Commission and his appointment must be deemed to be a regular appointment and therefore without conducting an enquiry and an opportunity for misconduct, ordering his reversion was illegal.

Disposing of the appeal, this Court

G HELD : 1.1. Admittedly, there is no order communicated to the respondent appointing him in a substantive capacity as Director. The only order passed in his favour was of July 22, 1972, which clearly shows that he would continue temporarily until further orders in terms of the order of appointment made on *ad hoc* basis on August 12, 1971. Mere prolonged continuous *ad-hoc* service does not ripen into a regular service to claim permanent or substantive status. He would remain to be on *ad-hoc* basis H until further orders. Since the Government had taken policy decision to

appoint an I.A.S. Officer to the post of Director, the respondent was rightly A
reverted to the post of Joint Director. [106-B]

2. However, the stark facts remain that he continued in the post of B
Director and discharged his duties as Director from August 12, 1971. In
these circumstances, as a mark of good gesture but not as a precedent, the
appellants are directed to give him pensionary benefits computing his pay
as if he voluntarily retired as Director from December 16, 1977. [106-C]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1152 of
1995.

From Judgment and Order dated 12.4.93 of the Orissa Administrative C
Tribunal, Bhubaneswar in T.A. N. 50 of 1990.

A.K. Panda for the Appellants.

Janaranjan Das for the Respondent. D

The following Order of the Court was delivered :

Delay condoned. Heard learned counsel for the parties.

Leave granted. E

This appeal arises from the order dated April 12, 1993 passed by the
Orissa Administrative Tribunal, Bhubaneshwar, in T.A. No. 50/90. Admit-
tedly, the respondent was appointed as Director of Fisheries on August 12,
1971, on *ad-hoc* basis. Thereafter, by order dated July 22, 1972 he was
directed to continue temporarily until further orders. It would appear that F
the government had taken policy decision to appoint an I.A.S. officer to
man the post of the Director, Fisheries. By Notification dated March 18,
1977, the Government has reverted the respondent from the post of Direc-
tor to the post of Joint Director. The respondent had voluntarily retired
from service on 16.12.77. The only controversy is whether the reversion of G
the respondent is valid in law. It is pointed out by Mr. J.R. Das, learned
counsel for the respondent, that the respondent was appointed after con-
sultation and with the concurrence of the Public Service Commission.
Therefore, his appointment must be deemed to be a regular appointment.
Thereby without conducting an enquiry and an opportunity for misconduct,
the reversion of the respondent to the post of Joint Director is illegal. We H

A find no force in the submission.

Admittedly, there is no order communicated to the respondent appointing him in a substantive capacity as Director. The only order passed in his favour was of July 22, 1972. That order clearly shows that he would continue temporarily until further orders in terms of the order of appointment made on *ad-hoc* basis on August 12, 1971. In other words, mere prolonged continuous *ad-hoc* service does not ripen into a regular service to claim permanent or substantive status. He would remain to be on *ad-hoc* basis until further orders. Since the government had taken policy decision to appoint as an I.A.S., he was rightly reverted to the post of Joint Director. Accordingly, we hold that his reversion is perfectly legal and valid. However, the stark facts remain that he continued in the post of Director and discharged his duties as Director from August 12, 1971. In these circumstances, as a mark of good gesture but not as a precedent, the appellants are directed to give him pensionary benefits computing his pay as if he voluntarily retired as a Director from December 16, 1977. All the proceedings now stand concluded. The T.A. stands dismissed. The appeal is disposed of accordingly. No costs.

G.N.

Appeal disposed.