

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P. (C.) No.637/2010**

% **Date of Decision: 01.02.2010**

Sh. Babu Lal Meena Petitioner
Through Mr. Sachin Chauhan,

Versus

Controller General of Accounts & Ors. Respondents
Through Mr. Pankaj Prasad, Advocate

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE MOOL CHAND GARG

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| 1. | <i>Whether reporters of Local papers may be allowed to see the judgment?</i> | YES |
| 2. | <i>To be referred to the reporter or not?</i> | NO |
| 3. | <i>Whether the judgment should be reported in the Digest?</i> | NO |

ANIL KUMAR, J.

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The petitioner has challenged the order dated 15th December, 2009, passed in OA No. 20/2008, titled Babu Lal Meena Vs. Controller General of Accounts dismissing the original application of the petitioner seeking permanent absorption in the organization where the petitioner was on deputation.

The petitioner was a peon in Central Tibetan School Administration, Ministry of HRD and was appointed to the post of LDC with the Controller General of Accounts, Department of Expenditure.

The appointment of the petitioner with Controller General of Accounts, Department of Expenditure was on deputation for two years, however it continued till 9th January, 2008 on account of extension. During the period the petitioner was on deputation, OMs dated 14th March, 2006 and 29th June, 2007 were issued contemplating asking for option from the deputationists in the grade of LDC Accountant for absorption pursuant to which the petitioner claimed his absorption as a deputationist with Controller General of Accounts. As the petitioner was not absorbed, he filed an original application before the Central Administrative Tribunal, Principal Bench for direction to the respondent to absorb him.

The claim of the petitioner was contested by the respondents contending, inter-alia, that the petitioner has been granted maximum possible extension of five years till 9th January, 2008 and for extension beyond the period, an approval of DOPT was required. Since the petitioner was an LDC and doing a routine job, his absorption was also not considered indispensable and therefore approaching DOPT was also not considered appropriate.

The Tribunal has declined the prayer of the petitioner for absorption. The Tribunal has relied on the OM dated 28th January, 2008, contemplating withdrawal of earlier OMs dated 14th March, 2006 and 29th June, 2007 contemplating filling up the post of LDC according

to prescribed modes of recruitment rules, i.e., direct recruitment through SCC and promotion of department candidates.

Learned counsel for the petitioner has emphatically contended that in view of earlier OMs, the petitioner is entitled for absorption. This, however, cannot be denied that the OMs dated 14th March, 2006 and 29th June, 2007, has since been withdrawn and if decision has been taken to fill the post of LDCs according to the recruitment rules, the petitioner has no ground to impugn the OM dated 28th January, 2008. In any case, the petitioner does not have any vested right to get absorbed.

In the circumstances, the petitioner does not have any vested right to get absorbed as a deputationist and the decision of the Tribunal not to permit absorption of the petitioner as a deputationist, cannot be faulted. In the facts and circumstances, the writ petition is without any merit and it is therefore dismissed.

ANIL KUMAR, J.

FEBRUARY 01, 2010
'rs'

MOOL CHAND GARG, J.