

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 3145 OF 2002

New Delhi. this the 2nd day of September, 2003

HON'BLE SHRI SHANKER RAJU, JUDICIAL MEMBER
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Dr. (Mrs.) Nabanita Dutta
B-33, Sookhana Apartment,
Plot No. 15, Vasundhara Enclave,
New Delhi-110096.

....Applicant

(By Advocate : Shri Ashish Kalia)

Versus

Union of India, through

1. The Secretary,
Council for Scientific & Industrial Research,
Rafi Marg,
New Delhi-110001.

2. The Director
Central Road Research Institute,
Mathura Road,
New Delhi-110020.

.....Respondents

(By Advocate : Shri Praveen Swarup)

O R D E R (ORAL)

SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER:-

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 claiming the following reliefs:-

- i) Set-aside the termination w.e.f. 30.06.2002 of the applicant on permanently.
- ii) Direct to the Respondent to consider the applicant after giving her chance under quick consequential benefits if any.
- iii) Any other order may be passed as deem fit proper by this Hon ble Tribunal."

2. The applicant states that she has put more than 10 years as a Researcher in the Council of Scientific and Industrial Research (CSIR for short).

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The claim of the applicant is that she has been denied her rightful claim of being absorbed as regular Scientist at suitable level in Central Road Research Institute (CRR I for short). CRR I is stated to be constituent of CSIR. The applicant was initially selected in December, 1991 on the basis of interview conducted on the national level for Direct Senior Research Fellowship, a project funded by CSIR. She had worked as Senior Research Fellow from January, 1992 to June, 1994 in the University Teaching Department of Physics, Barkatulla University, Bhopal. She was again selected and worked for one and a half years as Direct Research Associate from June, 1994 to February, 1996. On transfer to the Jawaharlal Nehru University, New Delhi, she worked there on the project. The applicant had also applied to CRR I in September, 1997 for the post of Fellow Scientist under Quick Hire Scheme for Scientists. On being selected, she joined on 24.11.1997 and she hoped that she would be absorbed on regular basis within a reasonable time being meritorious candidate. Her appointment was for three years on contract basis. It is claimed that in the month of August, 2000, she applied for consideration for the regular post of Scientist Group B and Group C, but instead of regular posting, her services were extended as Fellow Scientist. It is applicant's contention that on 30.11.2000, respondent no.2 invited applications for regular appointment by advertising the regular vacancies for the posts of Scientist 'B to F' in the

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Science and Engineering streams. The applicant states that she had requisite qualifications being M.Sc (Physics) with 71.83%, M.Phil with 83%, Ph.D. (Discipline. Physics) and PG Diploma in Ecology and Environment with five and a half years research experience. She was eligible for the posts of Scientist B, C and E. In the list of selected candidates issued on 6.6.2001, her name did not figure. The applicant contends that on inquiry, she learnt that she was not considered for the post. Aggrieved by the action of the respondents, the applicant made a representation on 12.6.2001. The applicant was selected lastly on 7.2.2002 under the National Highway Authority of India's sponsored project. Her appointment was confirmed by a letter dated 6.5.2002 w.e.f. 15.4.2002 (Annexure A-5). However, the grievance of the applicant is that instead of her continuance with the respondents and absorption at a suitable level, her services have been terminated by the impugned order dated 31.5.2002 (Annexure A1). Representation made by the applicant has also not been suitably considered. Hence this OA.

3. The respondents have opposed this OA. In their reply, the respondents have submitted that the applicant was not considered to be appointed for the post of Scientist B and C because of the fact that it was found that the qualification of the applicant did not match with those adopted by the Screening Committee as criteria for short-listing the candidates

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to be called for interview. It is also stated that the applicant worked till June, 2002 on purely temporary/contractual basis and, therefore, she had no right/claim implicit or explicit for consideration for regularisation/absorption against any CRR/CSIR post. The applicant was lastly engaged on the basis of fresh interview in which she had applied and was selected among other applicants. She worked as Project Assistant w.e.f. 15.4.2002 to 30.6.2002 under the sponsored project scheme, the terms of which were intimated as per letter dated 28.2.2002 (Annexure A-5 (3)). The terms indicated that the offer of the engagement was not an offer of appointment in CSIR temporary or otherwise. It was a contractual engagement on purely temporary basis for the project/scheme funded by the sponsor. The contract of engagement was terminable by giving one month's notice in writing by either side. The learned counsel of the respondents stated that the applicant being a contractual appointee could not make any grievance if her services were terminated by the impugned order dated 31.5.2002 (Annexure A1) by giving one month's notice. Regarding advertisement for fresh recruitment vide advertisement No.2/7/2000 (Annexure A6), it is stated that the research work could also be supplemented by fresh talents in the open market instead of offering to the researchers who are already working with the organisation. The learned counsel stated that even though the stand of the department is that the applicant was not qualified for the post

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applied, if the screening done by the respondents was justified. According to the learned counsel, there were a very large number of applications received in response to the said advertisement. Therefore, the respondents confined themselves to the manageable number only. Even if it is assumed that the applicant was eligible for the posts advertised, she was not called for interview as better qualified persons had applied. In this connection, he stated that for one category of post, there were as many as 802 applications. Since the selection was to be made by interview, only 64 persons were called for interview for the post of Scientist B where there were seven vacancies. The learned counsel stated that the applicant has filed this application without any justifiable reasons and the same deserves to be dismissed.

4. We have considered the facts of the case as well as the submissions made by the parties.

5. So far as the grievance of the applicant regarding termination of her services by OM dated 31.5.2002 (Annexure A1) is concerned, the same cannot be assailed. The appointment of the applicant was on contract basis for six months. The contract of the engagement of the applicant could be terminated by giving one month's notice in writing by either side, as can be seen from the terms of such engagement communicated to the applicant vide letter dated

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28.2.2002 (Annexure A5 (3)). Therefore the first relief claimed by the applicant seeking setting aside of the impugned order dated 31.5.2002 terminating the services of the applicant w.e.f.30.6.2002 is not justified and this prayer is rejected.

6. The applicant has also sought a direction to the respondents to consider her appointment after giving her chance under quick hire scheme for permanent absorption with consequential benefits, if any. The directions sought for the consideration of the applicant for recruitment of Scientist etc. for major projects as per Annexure 1 of the rejoinder is also not justified on the facts of this case. The required eligibility period for consideration is 15 years continuous service which the applicant has not yet completed. However, the respondents have power to relax such a requirement under this quick hire scheme. The respondents learned counsel stated that the decision of the Hon ble Lucknow Bench of the High Court giving such a direction in the case of Dr. Ragini Sahani and 55 Others Vs. Union of India and others in Writ Petition No.69(SB) of 2001 by their judgment dated 7.5.2003 is still subjudice as the Special Leave Petition filed by the respondents is still pending before the Hon ble Supreme Court for consideration. Even if the decision of the Lucknow Bench of the High Court is to be followed, the applicant is to make an application for relaxation of eligibility criteria. The learned counsel of the respondents submitted that

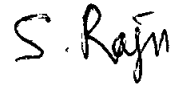
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no such application has been made by the applicant so far and if any application is made, the same will be considered in accordance with the law and rules. In our opinion, the submissions on behalf of the respondents appear to be justified on the facts of this case. In case, the applicant makes any representation for such consideration, the respondents have to consider the same in accordance with the Courts decisions and the applicable rules. So far as, the applicant's selection against direct recruitment posts is concerned, the applicant may be given age relaxation to the extent of service rendered by her with the respondents if she applies for such a direct recruitment post in future and is found otherwise eligible.

7. In view of the observations and directions given above, this application is partly allowed without any order as to costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER



(SHANKER RAJU)
JUDICIAL MEMBER

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