

(W)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1438/2002

Tuesday, this the 28th day of January, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)  
Hon'ble Shri Shanker Raju, Member (J)

R.S. Atal  
Working as Museum Lecturer  
National Museum, New Delhi

...Applicant

(By Advocate: Shri M.K.Bhardwaj)

Versus

Union of India & Others through

Secretary  
Ministry of Tourism and Culture  
Shastri Bhawan, New Delhi

Director General  
Department of Culture  
National Museum  
Janpath, New Delhi

...Respondents

(By Advocate: Shri Rajinder Nischal)

O R D E R (ORAL)

**Shri Govindan S. Tampi:**

Applicant, Shri R.S. Atal, in this case seeks regularisation as Museum Lecturer in the respondents' Organisation, with consequential benefits.

2. During the oral submissions, S/Shri M.K.Bhardwaj and Rajinder Nischal appeared for the applicant and the respondents, respectively.

3. The applicant, who holds Master Degree in History has been working as a Gallery Attendant in National Museum on ad hoc basis since 4.2.1978 in which post he has been regularised on 26.5.1981. After obtaining the Certificate in Museology, he applied for the post of Museum Lecturer, was interviewed and selected and appointed on 30.11.1996

(2)

on ad hoc basis for a period of six months or till the post is filled up on regular basis whichever is earlier. Angry at the conduct of the applicant, in his filing a PIL before the Hon'ble Delhi High Court in his capacity as the General Secretary of the staff union, the respondents reverted him to his original grade. His representation for continued appointment as Museum Lecturer was rejected on 20.11.1999 and 29.12.1999, but as the respondents were without the assistance of any individual knowing the work brought in the applicant on 31.12.1999 as Museum Lecturer. But the respondents did not pay him the scale fixed for Museum Lecturer. On 2.8.2000, by a specific order, the respondents directed the applicant to look after the work on a token honorarium. The applicant is aggrieved by this order. Hence he is before us.

4. Forcefully arguing the cause of the applicant, Shri M.K.Bhardwaj, learned counsel pointed out that in spite his being academically qualified and experienced to hold the post of Museum Lecturer, he has been denied selection to that post. This was illegal and arbitrary and deserves to be interfered with, in the interest of justice, pleads Shri Bhardwaj. He also states that there was no reason or justification on the part of the respondents to keep him as Gallery Attendant and extracted the work of Museum Lecturer from him without paying him the corresponding remuneration. This was exploitation of the worst kind and has to be set aside.

5. In his reply, on behalf of the respondents, Shri Rajinder Nischal points out that the applicant, who has

been appointed purely on ad hoc basis as Museum Lecturer, does not get any vested right for regularisation. The ad hoc posting was purely a stop-gap-arrangement and the applicant cannot seek the benefit of regularisation. It was not correct on the part of the applicant to state that he was reverted on account of his filing a PIL, as it was not for the respondents to act against the honest interest of any member of the staff, merely because his activities are in pursuance of collective bargaining. The respondents also point out that while the applicant's services were utilised for performing the task of Museum Lecturer, they had granted him suitable honorarium and, therefore, the applicant should not have any grievance.

6. We have carefully considered the matter and perused the documents brought on record. We find that in terms of the Recruitment Rules, the post of Museum Lecturer was to be filled up exclusively by direct recruits from those having Master's or equivalent Honours Degree of a recognised University in Archaeology/Indian History/History of Art/Ancient Indian History and Culture, with ability to speak on Indian Art and Archaeology in Hindi and English. That being the case, the applicant cannot seek regularisation as Museum Lecturer as it would be an arrangement de hors the Recruitment Rules. At the same time, it is found that the respondents, who have reverted the applicant from the post of ad hoc Museum Lecturer, were utilising <sup>his</sup> ~~the~~ services in the same capacity, but were only paying him <sup>in token</sup> honorarium for the additional job being performed, in terms of their order dated 2.8.2000. When an individual is asked to perform the duties and the

15

(4)

functions of a post higher than the one which he holds, the law provides that he has to be compensated by giving him pay and allowances in the scale fixed for the same. Denying it would amount to exploitation, which the respondents, as a responsible arm of the Government, cannot afford to do. While the applicant cannot demand that he has to be regularised as Museum Lecturer, he is correct when he states that he should be given pay and allowances in the scale meant for the post of Museum Lecturer which he had been asked to perform. Call of justice warrants this and we order accordingly.

7. In the above of the matter, the OA succeeds partially and is accordingly disposed of. The applicant's request for regularisation against the post of Museum Lecturer is found to be without merit not being covered by the Recruitment Rules and is accordingly rejected. The respondents are, however, directed to pay him his pay and allowances in the scale of a Museum Lecturer from the date he was so engaged, i.e., from 31.7.2000. The amount so due to him shall be sanctioned and disbursed within a period of two months from the date of receipt of a copy of this order. No costs.

S. Raju

(Shanker Raju)  
Member (J)

/sunil/

(Govindan S. Tampi)  
Member (A)