

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE**

ORIGINAL APPLICATION NO.170/00048/2020

DATED THIS THE 12th DAY OF FEBRUARY, 2020

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

Ravichandran C
S/o Cheluvaraju
Aged about 35 years
Working as Field Engineer
CSIR 4PI, NAL Campus
Wind Tunnel Road
Bangalore.Applicant

(By Advocate Sri.B.S.Venkatesh Kumar)

Vs.

1. Union of India
Represented by Secretary
Ministry of Science and Technology
Technology Bhavan
New Mehrauli Road
New Delhi-110 016.

2. The Director
CSIR-National Aerospace Laboratories
Kodihalli, Airport Road
Bangalore-560 017.

3. Administrative Officer
CSIR-National Aerospace Laboratories
Kodihalli, Airport Road
Bangalore-560 017.Respondents

O R D E R

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN)

The case of the applicant is that he was offered appointment on 9.5.2011 as Data Entry Operator on temporary and contract basis on successfully qualifying the selection process(Annexure-A1). He reported for duty on 23.5.2011 and was

issued with a temporary identity certificate with a stipulation that he will have to get his permanent ID card by 22.6.2011(Annexure-A2). He was also issued a pass valid up to 22.2.2015(Annexure-A3). As per the communication dtd.24.5.2011(Annexure-A4), the Data Entry Operators are to be treated on par with Project Assistants working in various projects of NAL. The entry pass issued vide Annexure-A3 was extended by another two years(Annexure-A5) and the same was being extended from time to time till 31.12.2017(Annexure-A6). From the year 2014, the designation of the applicant was changed from Data Entry Operator to that of Project Engineer by enhancing the emoluments to Rs.15,000 consolidated vide Office Memorandum dtd.11.8.2014(Annexure-A7). However, the engagement was discontinued w.e.f. 1.10.2014 vide Office Memorandum dtd.25.9.2014(Annexure-A8). But again he was offered temporary appointment on contractual basis in NALTECH(another project) in NAL vide letter dtd.10.10.2014(Annexure-A10). He was working from 10.10.2014 to 31.12.2017 in that project. However, the respondents directed the applicant to work till the completion of pending work till 31.1.2018 but without salary vide communication dtd.2.1.2018 duly approved by the Head CSIR(Annexure-A11). The applicant was again offered employment as Field Engineer as per the letter dtd.13.6.2018 for a period of one year(Annexure-A12). The said letter was further extended for one more year i.e. up to 14.6.2020 with enhancement of pay(Annexure-A13). Thus it can be seen that he has been in service of the 2nd respondent from 23.5.2011 till date except for a brief period. Before joining service on 23.5.2011, the 2nd respondent directed the applicant to furnish the attestation form which the applicant complied on 16.5.2011(Annexure-A14). On 6.9.2011, Commissioner of Police, Bangalore City addressed a letter to the 3rd respondent about the

verification of character and antecedents of the applicant(Annexure-A15). Thus it is clear that he is working in the office of 2nd & 3rd respondents. He has put in more than eight years of service and he is now aged 35 years and has become ineligible for government service and therefore, he is eligible to be absorbed in the services of the NAL organization. A perusal of terms of appointment(Annexure-A1) is clear that the appointment will bestow leave and also medical facilities in terms of CS(MA) Rules. In para 2 of Appendix, a condition is stipulated that in case of persons selected being in employment elsewhere, they are required to get the relieving order from such employer. Thus it is clear that the appointment is a continuous one and not liable to be terminated at the instance of either party. The OM dtd.25.9.2014(Annexure-A8) was issued by Section Officer(Gen) of the 2nd respondent by discontinuing the service of the applicant but not by the contractor. Therefore, it is clear that the appointment was made by the 2nd respondent though it was made to be through the contractor. The certificate of commitment(Annexure-A17) issued by Central Vigilance Commission will come into only in respect of Government servants and this is another ground on which the applicant seeks to submit that he is entitled for absorption in the services of the 2nd respondent. Therefore, the applicant has filed the present OA seeking the following relief:

- a. Call for records of the case from the respondents and on perusal*
- b. Issue a writ in the nature of mandamus directing the respondents to regularize the applicant in the service of the second respondent in view of the fact that he has put in nearly nine years of service in the said organisation.*

2. We have heard the Learned Counsel for the applicant and perused the application in detail. The issue in this case is in a very small compass. Vide Annexure-A1, the applicant was appointed on a purely temporary and contract basis, on a consolidated pay for a period of six months. This period was extended

from time to time and in the terms and conditions of the engagement itself, it has been very clearly stated that it is not an offer of appointment in the respondent organisation and that it would not confer any right implicit or explicit for the applicant's consideration for regularisation or absorption. Apart from one day's leave for each month of completed service, it was also made clear that he was not entitled for any medical facilities. This contractual arrangement was changed from time to time to make it a project engineer, field engineer etc., and from 2014 even this contractual arrangement was closed w.e.f. 30.9.2014. Subsequently, he was appointed once again on a contractual basis in NALTECH (a Section 25 Company) and here also, the appointment was given on a purely contractual and temporary basis. Apparently as on date, this contract is continuing. Therefore, it is obvious that his appointment is purely on a contractual basis and applicant does not have any right to claim regularisation as he had accepted the terms and conditions of the contractual appointment very clearly from time to time and in fact the original contract was also closed in 2014 and subsequently a fresh contract has been given in October 2014.

3. We do not find any merit in the OA and hence dismissed. No costs.

(C.V.SANKAR)
MEMBER (A)

(DR.K.B.SURESH)
MEMBER (J)

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Annexures referred by the applicant in OA.No.170/00048/2020

Annexure-A1: Appointment order dtd.9.5.2011
Annexure-A2: ESIC identity certificate

Annexure-A3: Temporary pass

Annexure-A4: Salary authority letter

Annexure-A5: Entry pass

Annexure-A6: Pass Extension dates

Annexure-A7: OM showing extension of service

Annexure-A8: OM dtd.25.9.2014

Annexure-A9: Certificate dtd.30.9.2014

Annexure-A10: Offer of appointment dtd.10.10.2014

Annexure-A11: Authority to work letter dtd.2.1.2018

Annexure-A12: Appointment offer dtd.13.6.2018

Annexure-A13: Extension of appointment dtd.14.6.2019

Annexure-A14: Attestation form dtd.16.5.2011

Annexure-A15: Police report dtd.6.7.2011

Annexure-A16: Letters showing extension of service issued periodically

Annexure-A17: Certificate of commitment issued by Central Vigilance
Commission, New Delhi
