



CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A. No. 60/941/2017 &
M.A. No. 60/5/2020

Chandigarh, this the 31st day of January, 2020

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

HON'BLE MRS. NAINI JAYASEELAN, MEMBER (A)

Piyush Agnihotri, aged 29 years s/o Sh. Parmod Kumar Agnihotri, working as Junior Engineer (Civil) o/o Navodaya Vidyalaya Samiti, Regional Office, Bay NO. 26-27, Sector 31-A, Chandigarh.

...Applicant

(BY: MR. R.K. SHARMA, ADVOCATE)

Versus

1. Navodaya Vidyalaya Samiti (Ministry of Human Resources Development, Department of School Education & Literacy) (Government of India), B-15, Institutional Area, Sector 62, Noida through its Commissioner.
2. Deputy Commissioner, Navodaya Vidyalaya Samiti, (Ministry of Human Resource Development, Department of School Education & Literacy) Govt. of India, Regional Office, By No. 26-27, Sector 31-A, Chandigarh.

... Respondents

(BY:MR. D.R. SHARMA, ADVOCATE)



O R D E R (Oral)

SANJEEV KAUSHIK, (Member) (J):

M.A. NO. 60/5/2020

Present M.A. has been filed for amendment of the Original Application on the plea that during the pendency of the O.A. the respondents have passed order detrimental to the interest of the applicant, to which the respondents have filed reply.

2. We have heard learned counsel for the parties on application for amendment as well as O.A.

3. The prayer in this O.A. is to quash an advertisement dated 6.8.2017 for filling posts of Junior Engineer (Civil) on contract basis and other order dated 28.9.2017 (Annexure A/1/1) whereby a decision has been taken by the respondent department to engage 3 Jr. Engineers on contract basis through outsource or retired personnel from defence, PSU, State PSU or any Govt. department/Agency.

4. The applicant herein, Mr. Piyush Agnihotri was initially appointed to the post of Junior Engineer (Civil) on contract basis on fixed emoluments of Rs. 16000/- P.M. in pursuance of advertisement dated 9.8.2012. He continue as such with the respondent department and his period of contract was extended from time to time. This O.A. was filed as the applicant was under apprehension that his



services will be replaced by other contractual persons as they have notified vacancies vide advertisement dated 6.8.2017 (Annexure A-1). The submission made on behalf of applicant at preliminary hearing based on judgment dated 27.7.2017 passed in O.A. No. 060/543/2016-Gaganpreet Kaur Sidhu & Ors. vs. The Secretary Technical Education, U.T. Chandigarh and Others found favour with the Bench and it was directed to maintain status quo with regard to the service of the applicant as such the applicant is continuing in service.

5. Mr. R.K. Sharma, learned counsel for applicant argued that the respondents have now decided not to allow the applicant to continue and engage persons from out source by another mode and payment and this is done only to oust the applicant from service.

6. Respondents have filed reply to the O.A. as well as M.A.

7. Mr. D.R. Sharma, learned counsel appearing on behalf of respondents vehemently contested the claim of applicant and submitted that they do not require post of Jr. Engineer in Chandigarh Region. He suffers a statement that the interest of the applicant will be protected in view of settled law that contractual person cannot be replaced by another contractual person. He argued that since they have decided not to fill up the vacancies of Jr. Engineers on contract basis



as per policy decision dated 16.12.2019, therefore, this M.A. for amendment as well O.A. be disposed of.

8. We have given our thoughtful consideration to the submissions made on behalf of parties.

9. The solitary issue in this O.A. is of replacement of contractual employee who has been appointed through a valid selection, by another similarly placed person. The issue is no longer res-integra as has been decided by the jurisdictional High Court as well as by Apex Court in number of cases, wherein it has been held that contractual employee cannot be replaced by another set of similar employee unless he acquires disqualification during his service. Considering the fact that a policy decision has been taken by the respondents that they do not require post of Jr. Engineer in Chandigarh region, therefore, the plea of the applicant to allow him to continue on the post on contract cannot be accepted. However, later on if the respondents want to fill up the post of Jr. Engineer on contract basis or from outsource or from any other mode except regular appointment then applicant be considered first for appointment.

10. Another prayer of the applicant for grant of minimum pay plus Dearness Allowances for the period when he worked with them on contract, which is pending consideration based on law as relied upon by the learned



counsel for applicant in the case of **Hargurpratap Singh vs State of Punjab & Ors.** (2007) 13 SCC, **State of Punjab & Ors vs. Jagjit Singh & Ors.** JT 2016 (10) SC 434, and decision of this Tribunal in the case of **Krishan Kumar vs U.T. of Chandigarh & Ors.** 2004 (3) (cat) 229, we direct the respondents to consider the claim of applicant in view of decisions referred as above and pass reasoned and speaking order thereon. If the applicant is found entitled for the same, the benefit be granted to him, otherwise a reasoned and speaking order be passed.

11. In view of above, the M.A. as well O.A. stand disposed of accordingly with no order as to costs.

(Naini Jayaseelan)
Member (A)

Place: Chandigarh
Dated: 31.01.2020
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(Sanjeev Kaushik)
Member (J)