

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

TA. /21/1/2015 (W.P. No. 397/2003)

Hyderabad, this the 24th day of December, 2019



***Hon'ble Mr. Justice L Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Member (Admn.)***

V. Srinivas, S/o. V. Narsaiah,
Aged about 36 years,
Occ: Junior Engineer Electrical,
National Institute of Rural Development,
Rajendranagar, Hyderabad.

... Applicant

(By Advocate Mr. Pratap Narayan Sanghi)

Vs.

1. The National Institute of Rural Development,
Rep. by its Registrar, Rajendranagar,
Hyderabad.
2. The Director General,
National Institute of Rural Development,
Rajendranagar, Hyderabad.

... Respondents

(By Advocate Mrs. K. Rajitha, Sr. CGSC)

ORDER (ORAL)***{As per Hon'ble Mr. Justice L Narasimha Reddy, Chairman}***

The National Institute of Rural Development, Hyderabad issued a notification on 27.11.1996 inviting applications for the post of Junior Engineer (Civil) & (Electrical), and the applicant responded to the same, for the post of Junior Engineer (Electrical) [for short “JE (E)”]. Through an order dt. 04.07.1997, the respondents appointed the applicant as JE (E) for a period of five years on contractual basis. However, he was placed in the scale of pay.

2. Stating that the appointment was in pursuance of an advertisement and through a selection process applicable for regular selections and the respondents have committed illegality in appointing him on contractual basis, the applicant filed Writ Petition No. 397/2003 before the Hon'ble High Court of Andhra Pradesh, at Hyderabad. Reliefs in the form of declaration as well as consequential direction for appointing him on regular basis were sought. However, on finding that the 1st respondent is notified to be within the jurisdiction of the Central Administrative Tribunal, the Writ Petition was transferred to this Tribunal and re-numbered as TA No.1 of 2015.

3. The applicant contends that the advertisement was issued for regular appointment and the selection process was also conducted accordingly. He submits that there was absolutely no justification in issuing the order of

appointment on contractual basis. The applicant further contends that even where the appointments were made on contractual basis for superior posts like Professor and Head of Department, they were regularized in the year 2002 and thereafter, but he is not extended the similar treatment. He has furnished several instances in this behalf.



4. The respondents filed a counter affidavit opposing the OA. It is stated that in the advertisement itself, it was mentioned that the appointment can be made on contractual basis also and the applicant did not protest when he was appointed on contractual basis. It is stated that in view of the judgments of the Hon'ble Supreme Court in various cases, an employee appointed on contractual basis cannot claim relief of regularisation.

5. We heard Mr. Pratap Narayan Sanghi, learned counsel for the applicant and Mr. B. Laxman, learned advocate representing Mrs. K. Rajitha, learned Senior Central Government Standing Counsel for the respondents.

6. The advertisement issued in the year 1996 was for regular appointment. Nowhere, it was mentioned that it is for contractual appointment. The qualifications and other eligibility criteria as mentioned in the Recruitment Rules were incorporated. The only clause which the respondents fall back on for making contractual appointment reads as under:

“Deputation from Central Government/ State Government Departments, may also be considered. Appointment on contract basis may also be considered, if necessary.”



7. It is not the case of the respondents that the applicant was not found fit for being appointed on regular basis. Further, in case they wanted to treat the appointment on contractual basis, the respondents ought to have indicated to him about their proposal. Straightaway, the order of contract appointment was issued on 04.07.1997.

8. Failure of the applicant to protest against the issuance of appointment on contractual basis appears to be on account of the fact that there existed the practice of regularization of appointments made on contractual basis, even to very high posts. For example, on 22.07.2002, the respondents regularized the services of a Professors and Heads of Departments, who were appointed on contract basis. Office order dt.22.07.2002 reads thus:

“NIRD, Hyd – 30.

*No.Admn/A3/2000/95
22nd July, 2002*

OFFICE ORDER NO. 325

Sub: Regularization of internal candidates working as Professor and Heads on contract basis – Reg.

As approved by the Executive Council of the Institute, the contract services of the following Professors & Heads of Centres are hereby regularized with effect from the dates mentioned below, as per the following terms and conditions:

<i>Sl. No.</i>	<i>Name and designation</i>	<i>Date of regularization</i>
<i>1.</i>	<i>Dr. B.K. Thapliyal, Professor & Head (CAS)</i>	<i>20.5.1994</i>
<i>2.</i>	<i>Dr. R.R. Prasad, Professor & Head (CSD)</i>	<i>1.8.1995</i>
<i>3.</i>	<i>Dr. P. Durga Prasad, Professor & Head (CHRD)</i>	<i>1.8.1995</i>
<i>4.</i>	<i>Dr. S. Rajakutty, Professor & Head (CME)</i>	<i>1.8.1995</i>

2. *They will be governed by the Service Bye-laws, and conduct rules of the Institute.*

3. *They can be transferred to any other Centres/ places anywhere in India.*
4. *Age of superannuation in NIRD for academic staff as per present rules is 60 years.*
5. *Their entitlements like DA, HRA, TA, CCA, Medical facilities etc. as per their conditions of contract appointment will continue.*
6. *This order is subject to clearance by the Appointments Committee of the Cabinet, Department of Personal and Training, Govt. of India.*



To
All concerned.”

Sd/- Registrar & Director (Admn)

It is stated that one Sri P. Srinivasulu, Junior Engineer (Mech.) who, too, was appointed on contract basis was regularized at a later stage. In fact, on 29.08.2002, he was designated as Assistant Engineer in the scale of pay of Rs.6500-10500. It is stated that there are other similar instances.

9. It is true that in the State of Karnataka vs. Umadevi, the Hon'ble Supreme Court deprecated the practice of regularization of contractual employees. Even there, their Lordships directed regularization of employees, who were in service for more than 10 years, subject to certain conditions, such as, the appointment having been made against regular vacancy and the candidate having been subjected to selection process. The applicant fits into the exceptions carved in Uma Devi's case.

10. The post of Professor and Head of Department happens to be very important. In a National organization like the 1st respondent, the appointments are required to be made after inviting applications for regular appointment. For the post of Professor, competition is very stiff. However, they have chosen to appoint Professors on contractual basis and to

regularise them, later. If they did not feel any hindrance or impediment in such cases, it is not known as to why the applicant has been continued on contract basis for past several decades. Added to that, in the Engineering Wing of the 1st respondent organization itself, Junior Engineers, who were appointed on contract basis were regularized. One Mr. Ch. Prabhakar Rao, who, too was appointed on contract basis as Junior Engineer (Civil) filed Writ Petition No. 22491/2002, which, in turn was transferred to this Tribunal and re-numbered as TA No. 47/2012. Through an order dt. 09.07.2012, this Tribunal allowed the OA. Viewed from any angle, the action of the respondents cannot be accepted.



11. The T.A. is accordingly allowed. The respondents shall consider the case of the applicant for regularization of his contractual services, within a period of two months from the date of receipt of this order. We also direct that on such regularization, the applicant shall be extended the same benefits as was done in the case of other contractual employees, who were regularized.

12. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

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