

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

19

O.A.NO.1372/2001

This the 3rd day of January, 2003

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

1. Van Anusandhan Sansthan Karamchhari Sangh
through its General Secretary
Shri M.C.Mittal
s/o Late Shri Chander Bhan
r/o 158/1, Mahender Vihar
Ballapur Road
Dehradun 248 001
2. Shri O.P. Bhatt
s/o Late Shri R.P. Bhatt
r/o A-2 Laurie Load
New Forest, Dehradun
3. Shri D.R.Barthwal
s/o Late Shri R.D.Barthwal
r/o 124, Ashirbad Enclave
Gali No.4, Dehradun
4. Shri J.N.Ahuja
s/o Shri More Chand
r/o 751 Sunder Vihar
Ballapur Road, Dehradun
5. Shri H.S.Sharma
s/o Shri Phool Chand Sharma
r/o Village & Post Office Raipur
Dehradun
6. Shri M.C.Kukreti
s/o Late Shri D.C.Kukreti
r/o Village Kaulagarh
PO IPE, Dehradun
7. Shri A.K.Gulati
s/o Shri R.N.Gulati
12 Kesav Road
Dehradun
8. Shri Ganesh Ram
s/o Late Shri S.R.Arya
r/o 148, Kanwali Garden
Ballapur, Dehradun
9. Shri Durga Prasad Barthwal
s/o Shri T.R.Barthwal
r/o 97, I-Type FRI Qtrs.
New Forest, Dehradun
10. Shri S.D.Sharma
s/o Shri D.C.Sharma
r/o 57, Takle Road, New Forest
Dehradun

..Applicants

(By Advocate: Shri Madhav Panikar)

Versus

- 1. Union of India
through the Secretary
Ministry of Environment & Forest
Paryavaran Bhawan
CGO Complex
Lodi Road, New Delhi-3
- 2. The Joint Secretary
Ministry of Environment & Forest
Paryavaran Bhawan
CGO Complex
Lodi Road, New Delhi-3
- 3. The Director General
Indian Council of Forestry Research
& Education,
PO New Forest
Dehradun - 248 006

..Respondents

(By Advocate: Shri N.S.Mehta)

O R D E R (ORAL)

Shri Govindan S. Tampi:

Reliefs sought for in this OA were as below:-

- "i) call for the records of the case & accordingly quash the Annexure A-1 impugned Orders dated 1.1.2001 & 19.2.2001 with all its consequences;
- ii) direct the respondents 1 and 2 to maintain the applicants position as existed prior to the passing of the impugned Orders with all its consequences;
- iii) declare the action of the respondents No 1 and 2 in issuing the said impugned Orders in declaring the applicants as surplus as illegal, arbitrary, untenable in law, discriminatory & also in violation of the principles of natural justice, fair play and Legitimate Expectation with all its consequences;
- iv) further direct the respondents to treat the applicants in the same manner & on the same terms & conditions as the employees of other Department to the Govt. of India have treated in the like circumstances & also direct the Respondent No 1 to allow the applicants to remain on compulsory deputation to the Respondent No 3 without any deputation allowance till their super-annuation etc. with all consequential benefits;

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2. Heard Shri Madhav Panikar, learned counsel for the applicants and Shri N.S.Mehta, learned senior standing counsel for all the respondents.

3. Applicants are the Van Anusandhan Sansthan Karamchari Sangh and its members, who originally were attached to Forest Research Institute (FRI), Dehradun, presently on compulsory deputation to Indian Council for Forest Research and Education (ICFRE). Vide order dated 31.12.1986. FRI originally set up in 1906 became ICFRE. On 31.5.1991, the Institute and its regional branches were transferred to the Council with their officers being placed on compulsory deputation. On 22.6.1990, it had been decided to convert ICFRE into an autonomous body. The employees did not get full details of the terms and conditions of their employment with the Council. Though thereafter Compendium of Rules and Regulations for the employees were circulated, the same did not contain all the necessary details. It was learnt that as many as 1448 out of 2386 employees had opted for and absorbed by the Council by 31.3.1993 while the remaining including the applicants could not do so despite three opportunities given to exercise the option by 28.2.1996, 31.12.1996 and 30.6.1998, as clarifications sought by them have not been given, including the copy of the resolution of 22.6.1990 converting ICFRE into an autonomous body. According to the applicants, the terms and conditions of those who have already opted to join the Council and who (like the applicants) are yet to do so, have not been protected. By letters dated 1.1.2001 and 19.2.2001, 647 employees have been rendered surplus on the sole ground of their having

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not exercised option to join ICFRE. Among these was one of the applicants who had exercised the option, which showed the lack of application of mind on the part of the respondents. While organisation like BSNL, ICAR, CSIR, became autonomous in nature, none who chose to remain with the Govt. were declared surplus, or treated in a discriminatory manner, the fate that befell the applicants. They have not been given the benefit of higher scales of pay, as was made available to scientific personnel by the recommendations of the 5th Central Pay Commission. Their request that they be contained on compulsory deputation till their superannuation has also not been favourably considered ICFRE had also not agreed to the suggestion of the govt to create surplus cell, till those declared surplus retire, resign or join elsewhere, as they obviously want to dispense with the services of the applicants at their will and pleasure. The rights of the applicants for promotion in their turn also have been turned down. Thus they have been dealt with in a high handed manner leading to this OA.

4. Grounds raised in the OA are :

- i) the applicants on compulsory deputation have been performing satisfactorily;
- ii) they should be kept so till they are absorbed in the new service;
- iii) the applicants are being forced to opt in ICFRE without being told about the terms & condition properly;
- iv) those in other autonomous organisation like BSNL, ICAR, CSIR have not been similarly forced;
- v) financial arrangements have not been completed;

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vi) copy of resolution dated 22.6.90 has not been supplied;

vii) action of the respondents have been illegal."

In view of the above, the applicants seek that the OA be allowed with full reliefs to them.

5. The pleas by the applicant are fiercely contested by the respondents. It is pointed by them that ICFRE, Dehradun and the institutes thereunder were converted into an autonomous organisation and then to a society. The staff was accordingly sent to the Society on compulsory deputation, till their absorption. Majority of the staff opted for absorption barring about 800 who chose to retain the status as Govt. servants. They were to be transferred to the surplus cell, for eventual redeployment. They were also given incentives and as many as four chances to opt for ICFRE. Their request for permanent deputation till their retirement was not ^{allowed} ~~accorded~~ to impossible and incorrect. They had, therefore to be declared surplus. ^{the} applicants have been specifically informed that such of those who do not opt for absorption and remain as Central Govt servants, are liable to be placed in the surplus cell. Four opportunities last being on 15.9.2000, were given to them to exercise the option. They have also been supplied the Compendium of Rules and Regulations and their doubts have also been duly clarified but to no avail. Further the respondent No. 1 was not a recognised association and the OA was barred by limitation. Ministry's directions in regard to the autonomous status of the respondents was of 30.5.91 and the applicants are harping ~~on~~ a non-existent

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document of 22.6.90. After the said letter the Ministry had also brought out a Compendium of Rules and Regulations. As many as 3/4th of the staff had exercised the option to join the society leaving only the remaining 1/4th including the applicants. All the clarifications have been duly issued and the applicants have only been raising one plea or the other to delay the decision. This could not have been permitted. Regarding the recommendations of the 5th CPC, though not fully applicable have been extended wherever possible. Their request for continuous deputation cannot be permitted. Their conditions and status are not similar to those of CSIR, ICAR, Nuclear Power Corporation etc. Govt's decision in regard to the above issue was a policy formulation. It was taken at the highest level of the Govt. and could not be called in question. The applicants by their pleas were attempting to mislead the Tribunal. All the allegations made in the grounds are frivolous. The applicants have already been rendered surplus. There was no analogy with CSIR, ICAR and BSNL and the applicants cannot gain any benefit from their status. Respondents having made all attempts at persuading the applicants cannot be made to be mute ^{spectators in} at their intransigence and grant them whatever they ask.

OA, in the circumstances, merits rejection, plead the respondents.

6. Rejoinder by the applicants is only the reiteration of their allegations, with special reference to the letter dated 22.6.90, not supplied earlier, which the respondents have referred to as a mere communication.

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7. During the oral submissions both Sh. Madhav Panikar and Sh. Mehta reiterated their respective pleas. While the applicants argue that they have been placed on the surplus list for declining to fall in and opt for the society, the respondents urge that there was no way they could have put up with the behavioural pattern of the applicants who had refused to see reason. Abolition of the posts was a step taken by the Govt. as a policy decision accepting the recommendation of the Expenditure Commission and the same could not be interfered with. Shri Panikar finally indicated that he was confining himself to relief in 8(iv) requesting that the applicants be treated in the same manner as the employees of other departments were dealt with and to treat them as on compulsory deputation, without deputation allowance, till their dates of superannuation.

8. We have carefully considered the matter and perused the documents brought on record. The applicants, working with Indian Council of Forest Research and Education and an Association representing them are aggrieved that they have been rendered surplus. When the said council was converted into a registered society, the staff were sent on deputation and permitted to exercise the option to join the Society. To start with 1448 employees joined the society with 838 persons staying back as Govt. Employees. Thereafter more people joined the society, leaving 651 individuals remaining aloof, which included the applicants. Those persons are found to have been given as many as four opportunities to decide their future with the society. They did not do so. Obviously

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therefore they remained Govt servants and when the Govt. decided by its order F No. 2-63/2001-FE of 6.5.2002 to accept the recommendations of the Expenditure Reforms Commission a number of posts, including those held by the applicants have been rendered surplus. The applicants have sought to forestall ^{if-_n} by this OA, requesting that they should be kept on compulsory deputation as ^{was done} earlier and permitted to demit office in that manner, on their superannuation. Respondents have justifiably contested the claims. Applicants also do not deny that they have been given options to join the society on 28.2.96, 31.12.96 and 21.5.98, but they had not done so, each time seeking some clarification or other and claiming that the respondents were holding vital information. It is also on record that the respondents had supplied to them, following the decision of the Allahabad Bench of the Tribunal in OA 660/92, Compendium of Rules and Regulations for the employees. This also has not satisfied them. Their only complaint is that the resolution of 22.6.90, converting the autonomous organisation into a society has not been communicated to them which was improper. From the perusal of the said communication dated 22.6.90, brought on record by the respondent it is evident that it was only a letter intimating that the Govt. decided to convert the organisation into a society. We are not at all convinced that this letter ^{2 has in any way} affected the ^{adverse} rights and service, Conditions of the applicant in any ² manner. On the other hand, we are confirmed in our view that the applicants have only been taking an intransigent attitude which no organisation, much less a Govt. organisation could ~~not~~ be expected to put up with. If ² definitely is

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not for a minority of the staff to dictate terms as to how the concerned organisation should function, when the Govt. at the highest level - in spite of the baseless protestation by the applicants - had taken a policy decision. It is also nor for the staff to decide how they would like to be governed in the organisation. While it may justified by the staff to demand that their rights are not prejudicially affected the same right does not extend to directing that the organisation should subjugate its ~~interests~~^{interests} to succumb to their demand. This is exactly what the applicants in this OA demand. In the facts and circumstances of the case as brought out on records it is clear that the respondents have acted fairly and reasonably. Nothing further could have been demanded by them.

9. We also note that the applicants are making a request that they be given the status of compulsory deputationists with the Council/Society till their date of superannuation as in the case of ICAR, CSIR and Nuclear Power Corporation. The respondents have very clearly indicated that function-wise and structure-wise the position in ICFRE is different from the other Organizations. We find the same to be so.

10. We note that the respondent have raised a preliminary objection of limitation. However, in view of the fact that the applicants have not made out a case on merits, ~~this~~^{this} objection has ceased to be of any relevance.

11. In the result we are of the view that the applicants have not made out any case for interference.

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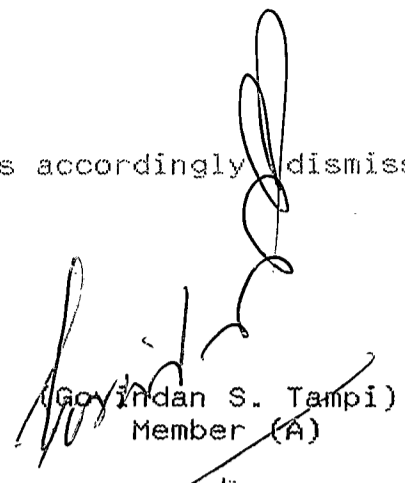
OA is devoid of any merit and is accordingly dismissed.

No costs.

S. Raju

(Shanker Raju)
Member (J)

/Patwal/


(Govindan S. Tampi)
Member (A)

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