

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.197/99

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

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New Delhi, this the 21st day of March, 2000

Shri Arvind Kumar Bansal
s/o Shri R.K.Bansal
c/o Sh. Anil Kumar Bansal
r/o A-2/131 Pashchim Vihar
New Delhi.

... Applicant

(Applicant in person)

Vs.

1. The Director General
Council of Scientific & Industrial
Research
Rafi Marg
New Delhi - 110 001.
2. The Director
Indian Institute of Petroleum
(Council of Scientific & Industrial
Research)
P.O.IIP, Mohkampur
Dehradun - 248 005.

... Respondents

(By Ms. Geeta Luthra, through Shri S.C.Saxena, Advocate)

O R D E R (Oral)

By Reddy, J.-

Pleadings are complete. The applicant appears in person and is ready to go on with his case. None appears for the respondents, either in person or through their counsel, except Shri S.C.Saxena, proxy counsel, who only requests for an adjournment on the ground that the counsel for the respondents is not appearing as the Advocates are abstaining from Courts. In our view, the reason given is neither valid nor tenable. Hence the request for adjournment is rejected. We proceed to dispose of the case on merits.



2. The applicant submits that he had been appointed as Project Technician on the consolidated amount of Rs.1500/- per month on a sponsored project under the Director, Indian Institute of Petroleum (Council of Scientific & Industrial Research) w.e.f. 8.2.1995 till 30.6.1998.

3. The Indian Institute of Petroleum, Respondent No.2 had invited applications for the post of Technician (Computer Operator) Gr.II(1) vide advertisement dated 27.9.1996. In response to the said advertisement, the applicant had received an intimation for appearing ^{for} interview at 9.00 AM on 15.3.1997. He was interviewed and was selected. He also received an appointment order and joined in the office of Respondent No.2 in the said post w.e.f. 1.7.1998. Copy of the appointment order and joining report are annexed at Annexure-A5 and Annexure-A8 respectively. On 26.10.1998, while going for duty he was asked to get down from the Institute Bus and not to come for duty. It is stated that no formal order had been issued in respect of his termination except an oral request. The applicant submits that he was not paid emoluments for the months of July, August, September and October, 1998.

4. The applicant argues that he was duly appointed on the basis of a regular selection and he joined duty. In the absence of any order of cancellation, he is entitled to continue and respondents are liable to pay his emoluments. It is



also submitted that his appointment order if it to be cancelled, the applicant should have been given notice before such cancellation.

5. The respondents filed the reply. A preliminary objection has been raised that the OA is not maintainable as the CSIR is not 'state' within the meaning of Article 12 of the Constitution of India. As the CSIR is only a registered as a Society under the Societies Registration Act, 1881 and the laboratories under the CSIR are not registered under any Act/Statute and have no independent legal existence. Hence, the OA is not maintainable.

6. It is the case of the respondents, on merits, that the applicant was the son of an employee, Shri R.K.Bansal, who was employed as Senior Mechanical Assistant in the Indian Institute of Petroleum, hence his appointment should have been made with the approval of the DG, CSIR, Respondent No.1. In the instant case, as the mandatory clearance from the CSIR Headquarters was not obtained his appointment was void ab initio. It is also stated that no regular appointment order, in favour of the applicant, has been issued.

7. We have considered the pleadings carefully and also the submissions made by the applicant.

8. The preliminary objection as to the maintainability of OA is without substance. CSIR is a notified institution under sub rule (3) of Section 14. The applicant is an employee of Indian Institute of

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Petroleum which is an unit of Council of Scientific & Industrial Research. Hence, this Tribunal has got jurisdiction to decide the OA.

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9. The contention of the applicant is that he was appointed by an order dated 1.7.1998, the original of Annexure-A5. It is the case of the applicant that he could not file the original appointment letter as the original appointment letter was taken back by the Administrative Officer, Indian Institute of Petroleum, on the plea of making some amendments in the order within a weeks time after appointment and joining duty on 1.7.1998. He submits that had he not kept a photocopy of the appointment letter, the respondents should have easily denied issuance of such an appointment letter. In reply to this allegation, the respondents in their reply at para 4.6 states that in view of the error noticed by the respondents in appointing the applicant, as he was a relative⁴ to an officer, the appointment letter was recalled/revoked, the appointment of the applicant by order dated 1.7.1998, Annexure-A5 is not valid. The allegation made in the earlier paragraph that the applicant was not regularly appointed, cannot therefore be accepted in view of the admission made by the respondents that his appointment letter has been recalled subsequent to his appointment.

10. When once the applicant has been shown to have been appointed the next question that arises for consideration is whether the appointment of the applicant can be revoked or cancelled by merely asking the applicant not to come to duty. The case of the

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respondents is that the appointment is bad in law/ab initio void as he was the close relation to an officer in IIP. But no provision of law or any rule or regulation has been shown in support of such contention. No material is placed before us in support of the said statement. Even considering the argument as valid, admittedly, no order has been passed either revoking or cancelling the order of appointment. Further, in our view, no such order can be passed without issuing a notice ^{giving} and a chance of hearing [See Shri Anil Kumar Vs. Union of India, 1993(2) ATJ CAT(PB) Page 404 and Shri Shrawan Kumar Jha and Others Vs. State of Bihar and Others, 1991 Supp(1) SCC 330].

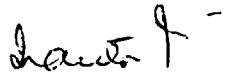
11. It is the case of the respondents that the applicant had not worked after he joined duty. In support of his case that he had worked after he joined the office, till he was asked not to come on 26.10.1998, he filed Annexure-15 along with the rejoinder where it is shown that the applicant seems to have worked on 6.10.1998 in the office. Annexure-A14 is another piece of evidence to show that he was asked to type some matter on 28.9.1998. In exhibit A-14, the signature of Shri R.P.Singh is seen and Shri R.P.Singh is said to be the Senior Scientist/E-1. Hence it cannot be said that applicant has not worked after he was appointed and joined duty. Once he is appointed and joined duty it is presumed that the office has taken his work from him till his order of appointment is cancelled. No such order has



(14)

been issued, hence, it is presumed that the applicant had been working after he joined duty, till 26.10.1998 when he was illegally asked not to come to duty.

12. In view of the aforesaid discussion, we hold that the applicant is entitled to continue to work till the order of appointment is in force and has not been cancelled in accordance with law, after giving notice to the applicant. The respondents are, therefore, directed to allow the applicant to work as Technician (Computer Operator) Gr.II(1) The applicant is entitled to the payment of his emoluments w.e.f. 1.7.1998. The OA is accordingly allowed with costs of Rs.5000/- (Rupees Five Thousand Only).


(SHANTA SHATRY)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE-CHAIRMAN(J)

/rao/