

Central Administrative Tribunal
Principal Bench

O.A. No. 1889 of 1998

New Delhi, dated this the 29 May, 2000

(22)

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Dr. Hari Shankar Tiwari,
S/o Shri Sripat Sahai Tewari,
R/o 36-D Pocket C,
Siddhartha Extension,
New Delhi-110014.

.. Applicant

(By Advocate: Dr. Suman Bhardwaj)

Versus

Union of India through
the Director General,
Indian Council of Agricultural Research,
Krishi Bhawan,
New Delhi-110001.

.. Respondent

(By Advocate: Ms. Geetanjali Goel)

ORDER

MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents' order dated 16.9.98 (Annexure P-1A) terminating his services w.e.f. 30.9.98 upon expiry of the sanction of the Project for which he was engaged. He seeks continuance of service in terms of respondents' circular dated 28/29.12.94 till his absorption on a regular post.

2. Heard both sides.

3. It is not denied that similarly placed persons had filed O.A. No. 438/97 (the only difference being that they were continuing in engagement with respondents when they filed the O.A. while applicant stood terminated from service when he

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filed this O.A.) which was disposed of by order dated 31.3.97. CWP No. 3417/97 was filed against that order in the Delhi High Court, who by its order dated 9.7.99 modified the direction NO.3 given by the Tribunal in its order dated 31.3.97 such that

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"as and when regular vacancies or posts occur respondents shall be considered against the same in accordance with the rules and guidelines of the petitioner."

4. Applicant's counsel states that he would be satisfied if the O.A. is disposed of in terms of the aforesaid modification made by the Delhi High Court.

5. Respondents' counsel contends that it is open to applicant to apply against vacancies and on receipt of his application, the same would be considered, but respondents cannot be expected to consider his claim for appointment against each and every vacancy even in the absence of any application from him. Reliance is placed on the Hon'ble Supreme Court's ruling dated 12.11.94 in SLP No. 9743/94 ICAR & Another Vs. H.S. Panwar etc. and connected cases which reads thus:

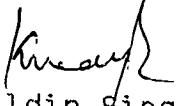
.....It is difficult to comprehend how the Tribunal could expect the employer to search some scheme/project for providing re-employment to the applicant from time to time as and when a scheme/project comes to an end and not to terminate his service. The direction is that on the completion of one scheme/project the employer should find out some other scheme/project and absorb him there on the same emoluments, etc. treating him as continuing in service. We find it difficult to uphold such an order. It is one thing to make a recommendation and a different thing to give such a direction and at the same time to continue him in service. We, therefore, set it aside and remit the matters to the Tribunal for

disposal on merits and in accordance with law rather than disposing them of by such ad hoc orders. The appeals will stand allowed accordingly with no order as to costs."

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6. The aforesaid ruling of the Hon'ble Supreme Court does not reinforce respondents' counsels arguments because there is nothing contained in the Delhi High Court's order dated 9.7.99 which requires respondents to search out a scheme for providing reengagement to applicant, once the present scheme had come to an end. The Delhi High Court's order dated 9.7.99 merely states that as and when regular vacancies become available respondents shall be considered against the same in accordance with rules and guidelines of the petitioner. If those rules and guidelines require an application to be filed in the first instance by the person seeking engagement against regular vacancies/posts, that requirement has to be fulfilled for the claim for appointment to be considered.

7. The O.A. is disposed of in terms of the Delhi High Court's order dated 9.7.99 referred to in Para 3 above. No costs.


(Kuldip Singh)
Member (J)


(S.R. Adige)
Vice Chairman (A)

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