

Central Administrative Tribunal
Principal Bench: New Delhi

...

O.A.No. 267/97

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New Delhi, this the 2nd day of June, 1998

Hon'ble Shri T.N.Bhat, Member (J)
Hon'ble Shri S.P.Biswas, Member (A)

In the matter of:

Dr. D.C.Sharma
Research Associate,
G-15, Project on Medicinal and Aromatic
Plants, WZ-110, Gali No. 37,
Uttam Nagar,
New Delhi.

....Applicant

(By Advocate: Shri Dhananjay K.Singh)

Versus

Union of India through
Dr. K.P.S.Chandel,
Acting Director,
National Bureau of Plant Genetic
Resources (N.B.P.G.R.), (ICAR),
Pusa Campus,
New Delhi.

...Respondent

(By Advocate: Shri V.K.Rao)

O R D E R

By Hon'ble Shri T.N. Bhat, Member (J):

This O.A. is directed against the Memorandum dated 26.12.1996 issued by the Senior Administrative Officer of the National Bureau of Plant Genetic Resources (N.B.P.G.R. for short), an Organisation set up by the Indian Council of Agriculture Research (ICAR, for short), by which the applicant's services as Research Associate have been terminated on the alleged ground of lack of devotion to duty and "lack of contribution in the project". It is stated in the impugned Memorandum that the applicant had frequently remained absent or on leave and has, therefore, not been able to make any contribution in the Project in which he was appointed.

.....2p/-

By *[Signature]*
26.6.98

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2. According to the applicant the impugned order is the outcome of malice on the part of the present Acting Director of the Bureau (NBPGR), namely, Dr. K.P.S.Chandel, as the applicant had expressed his resentment when the applicant's contribution to a Book entitled "Bio-Diversity of Medicinal and Aromatic Plants in India" was not acknowledged by the said Dr. Chandel in the "Authorship Credit" and his name was excluded. It is further averred that there was ^{no} material before the Acting Director on the basis of which he could have come to the conclusion that the applicant had shown lack of devotion to duty or had failed to make any contribution to the Project to which he had been appointed.

3. The respondent has resisted the O.A. mainly on the ground that the engagement of the applicant as a Research Associate was purely temporary in nature and that too in a Project that was to last only upto 31.3.1997. It is further averred in the counter that the applicant had remained absent or on leave too frequently and for this reason his continuance on the Project was considered to be not in the best interests of the Project.

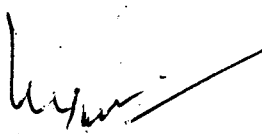
4. A preliminary objection has also been taken that in ^{the} absence of the I.C.A.R. as a party this O.A. is not maintainable.

5. The applicant has filed a rejoinder reiterating the contentions made in the O.A.

6. We have heard at length the arguments of the learned counsel for the parties and have given our careful consideration to their rival contentions.

7. The most important fact to be taken into consideration in this case is the nature of the applicant's engagement on the job. The initial appointment letter dated 5.5.1994 (Annexure-'B')

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(3)

offers a "temporary post" of Research Associate to the applicant on a particular project which project is likely to continue upto 31.3.1997. More importantly, there ~~is a~~^{are} specific and clear clauses in this letter, namely, clauses (b) and (c) which stipulate that the fellowship granted to the applicant can be terminated at any time by the Director if the applicant is found to be negligent in his work. It is further stipulated that the appointment is purely on ad hoc basis and can be terminated "within 24 hours notice".

8. In the impugned Memorandum, as already mentioned, it has been stated that due to his ailment the applicant has frequently absented himself by proceeding on leave. The applicant has not disputed the correctness of this assertion made in the Memorandum. All that the applicant states in this regard is that his frequent absence from the work of the Project could not be construed to be negligence. The learned counsel for the applicant also takes the same stand. We are afraid, this contention cannot be accepted. Absence would in the facts and circumstances of this case by itself amount to negligence. That apart, the letter of appointment also gave to the Director the power to terminate the applicant's services, at any time after giving 24 hours notice.

9. As regards the alleged mala-fides, we find that this allegation has not been established by production of any document in support thereof. The respondent has in the counter emphatically denied the allegation.

10. We also do not find the impugned order to be stigmatic. Although it is stated in it that the applicant had shown lack of devotion to duty, the respondent was adequately clarified that it was due to the applicant's ailment that he was compelled to proceed on leave which had resulted in "lack of

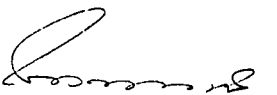
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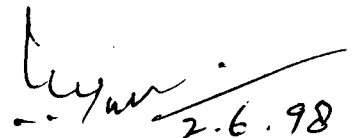
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devotion to duty and lack of contribution in the Project".

11. To sum up, we find no ground to interfere in this case. The impugned Memorandum does not suffer from any illegality or impropriety nor is this case ^{one} of arbitrary exercise of power.

12. In the event, we hereby dismiss the D.A., but without any order as to costs.


(S.P. BISWAS)
Member (A)


2.6.98.
(T.N. BHAT)
Member. (J)

'Naresh'