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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

OA.No.921 of 2000

New Delhi, this 10th day of January 2001

HON'BLE SHRI V.K. MAJOTRA, MEMBER(A)
HON'BLE SHRI SHANKER RAJU, MEMBER(J)

Dr Ajai Kumar Singh
S/o Shri N.K. Singh
R/o 66 Tagor Town, Orderly, Bazar
Varanasi-221001 ... Applicant

(By Advocate: Dr Sumant Bhardwaj - not present)

versus

Indian Council of Agricultural Research
through its Director General, Krishi
Bhawan, New Delhi-110001 ... Respondents

(By Advocate: Ms. Anuradha Priyadarshini
for Sikri & Company)

ORDER (ORAL)

Hon'ble Shri V.K. Majotra, M(A)

The applicant has assailed order dated 10.2.1997 passed by the Indian Council of Agricultural Research (ICAR) under which the applicant had been appointed as a Research Associate (Bio-Chemistry) in ICAR Project No.2773 for a period co-terminus with the project for a duration of 3 years from 1.1.1997 for a period of 5 years whichever is earlier. The applicant has stated that his case is similar to that of the applicants in OA.438/97 Dr. D.S. Rana & Ors Vs UOI & Ors. decided on 31.3.1997. It is alleged that the applicant though similarly placed as Dr. D.S.Rana and others, is not being absorbed.

2. In their counter, the respondents have

W stated that in terms of the order dated 10.2.1997

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the term of the applicant has come to an end with the Project having come to an end. They have also taken the plea that whereas the ICAR has been made a sole respondent it is the BHU and not ICAR who was the contract employer of the applicant and ICAR was merely an external ~~funding~~ agency of the Project at BHU. According to the respondents, the applicant has no claim for regularisation.

3. In the absence of the applicant and his counsel we have proceeded to dispose of the matter under Rule 15 of the CAT (Procedure) Rules, 1987.

4. We have heard the learned counsel for the respondents Ms. Anuradha Priyadarshini. She has stated that as and when regular vacancies are available, they are advertised, and persons who have been hitherto engaged under ICAR assisted projects, ~~are~~ given ~~weightage for~~ previous experience in such projects.

5. In OA.438/97 decided on 31.3.1997 following claims were made:

"The following conclusions emerge out of the above findings:

(1) The appointment of the applicants under the so called scheme in accordance with a contract, does not permit the respondents who have a duty to act fairly as a model employer, to terminate the services of applicants without giving an opportunity to the applicants to show cause why they should not be terminated.

As such, the applicants are entitled to notice.

(2) The applicants are also entitled to consideration against available vacancies both for continuation of the service in another scheme or if vacancies arise, for absorption or regularisation. The services of the applicants cannot be done away with without considering them against all the three possibilities stated above.

(3) We do not propose to pass a restraint order against the respondents to continue services of the applicants, nor to compel them to continue to pay until suitable scheme is made available to absorb/regularize except for a reasonable period of notice. We would like to leave it to the respondents who are expected to be a model employer and who are also expected not to act arbitrarily to exercise the power available to them as a public authority in the right manner and in the light of this judgement. At the same time, it goes without saying that absence of a restraint order does not negate all the rights the applicants are entitled to. The respondents shall consider them for appropriate placement including appointment against a scheme or consideration for absorption or regularisation within two months from today, taking into consideration the past service the applicants have rendered and also granting relaxation of age, which are otherwise normally applicable to such situation, and we must make it clear, that they shall not be made to stand in queue along with the fresh entrants and make them compete as equals among unequals.

With these directions, this Original Application is disposed of. No order as to costs."

6. In WP.No.3417/97 before the High Court of Delhi against the afore-stated order of this Tribunal, the following orders were passed on 9.7.1999:

"Since all the respondents are as of today working in one or the other project of the petitioner ordinarily this petition would have become infructuous. But counsel for the petitioner contends

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that main grievance of the petitioner still subsists i.e. with regard to the direction given by the Central Administrative Tribunal at direction No.3 of the impugned order. By this direction the petitioner is bound to regularize the services of all the respondents within a period of two months. To this the counsel for the respondents state that the respondents have no objection if this direction is suitably modified.

Accordingly after hearing counsel for the parties, we modify direction No.3 of the impugned order. It will read "that as and when regular vacancy or post occurs, the respondents shall be considered against the same in accordance with the rules and guidelines of the petitioner."

7. The Delhi High Court's order dated 9.7.1999 states that as and when regular vacancy become available, the applicants shall be considered against the same in accordance with the rules and guidelines on the subject.

8. This OA is disposed of in terms of the Delhi High Court's order dated 9.7.1999 referred to above. No costs.

S. Raju
(Shanker Raju)
Member(J)

V.K. Majotra
(V.K. Majotra)
Member(A)

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