

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

(15)

O.A. NO. 624/1986

DATE OF DECISION : 27.3.92

SHRI RAJESH SHARMA & ANR.

...APPLICANTS

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM

SHRI P.C. JAIN, HON'BLE MEMBER (A)

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANTS

...SHRI V.K. GARG

FOR THE RESPONDENTS

...SHRI M.C. GARG

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicants assailed the order of termination of their services dt.5.6.1986 passed by the Deputy Director (Horticulture), Delhi Administration. They prayed for the reliefs of quashing of the aforesaid order of termination with a declaration that they have become regular temporary Government servants and are entitled to all back wages.

2. The brief facts of the case are that the applicants were appointed Laborator Assistant on 7.2.1984. Their

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services were terminated w.e.f. 31.3.1985 by the Office Order dt. 29.3.1985. By another Office order dt. 29.4.1985, their services were ordered to be terminated w.e.f. 30.4.1985 instead of 31.3.1985. The services of the applicants were extended w.e.f. 1.9.1985 to 5.6.1986 and by the same order dt. 5.6.1986, services were terminated with immediate effect. According to the applicants, they have continued in service from 7.2.1984 to 10.6.1986 without any break in service.

3. It is stated by the applicants that they were appointed against the regular vacancies after completing and observing all formalities of the Recruitment Rules. Further, it is averred that after the applicants have put in $2\frac{1}{2}$ years of continuous service, the termination thereof is illegal, arbitrary, ultravires and unconstitutional. It is also stated in the Original Application that the applicants could not be labelled as ad hoc Government servants. In any case, it is urged that the applicants should have been given one month's notice or pay and allowances in lieu thereof.

4. The respondents in spite of repeated opportunities did not file the reply to the Original Application. However, the learned counsel for the respondents argued the matter on

the basis of the pleadings on record.

5. Heard the learned counsel for the parties. The appointment letter dt.7.2.1984 (Annexure P2) mentions the appointment of the applicants on temporary/ad hoc basis which will not confer on them any right to be considered for regularisation and the same is liable to be terminated on regular arrangements being enforced. The offer of appointment was given to the applicants by means of letter dt.7.2.1984 (Annexure P6). In this offer also, it is stated that the appointment can be terminated at any time without assigning any reason after giving one month's notice or the salary in lieu of that notice.

6. It is not disputed that the applicants by the appointment letter dt.7.2.1984 were specifically told about the nature of the appointment. The applicants, therefore, cannot equate their posting with regular Lab. Assistant as per extant Rules. The appointment did not confer any right of regularisation. The services of the applicants were terminated by Office Order dt.29.3.1985 w.e.f. 31.3.1985 and subsequently this date was changed by the Office Order dt.29.4.1985 w.e.f. 30.4.1985 and the period of notice be treated from 29.3.1985.

It is not evident whether after

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this date, the applicants have actually worked or not as Lab Assistant as no fresh appointment letter has been filed. Unless there is a valid letter of appointment, there cannot be any deemed extension to continue in the service. An extract L attendance register (Annexure P7) filed by the applicants is neither legible nor an authenticated one. The letter dt.5.6.1986 (Annexure P1) refers to the Office Order dt.1.6.1985 which goes to show that the ad hoc services of the applicants were extended w.e.f. 1.9.1985 to 5.6.1986 and are terminated w.e.f. this date, i.e., 5.6.1986. By all these documents pertaining to the initial appointment upto the date of termination, it is evident that the nature of appointment was only ad hoc to last till the expiry of a particular period or on the joining of the regularly selected persons.. The contention of the learned counsel for the applicants that the appointment was temporary is not based on any substantive evidence or fact.

7. The ad hoc appointment does not give any vested right for regularisation. The persons so appointed also cannot have any grudge because of implicit and express knowledge that without proper selection they cannot have a claim to the post in question. It was on May 15, 1985

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that again the Deputy Director (Horticulture) sought approval to the continuation of ad hoc appointment for three months (Annexure P8). Thus these appointments were for a fixed period.

8. The contention of the learned counsel for the applicants has no basis that the applicants have worked since April, 1984 to 30th April, 1985 and also worked thereafter and their services were terminated in June, 1986, so as a result of this continuous service, they have acquired a right of regularisation in service. The applicants could not show that their appointments were according to the Recruitment Rules in force and that all who were eligible on date were considered. In such cases the appointee cannot draw an analogy with those who can get appointment under the Recruitment Rules. That not being the case here, any length of ad hoc appointment does not change the nature of appointment to that of regular appointment to the post. In the case of Smt. Sunita Kumari Vs. Vice Chancellor, II (1991) C.S.J. p-306, High Court of Allahabad has held that the ad hoc appointment does not give any right of regular appointment. The Kerala Water Authority case, JT 1990 (4) SC 27 has also been distinguished in the above noted decision of the High Court, holding that there were

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specific statutory Rules which provided for regularisation of the services of the labourers engaged who continued for more than 2 years.

9. The learned counsel for the applicants also referred to the fact that no notice of one month was given nor any salary in lieu of notice has been paid. In fact this is not the issue in this case. Even if the pay of notice period is not paid that can be paid subsequently as held in 1990(1) SC p-69 C.A.T. However, as held above, the nature of appointment of the applicants was purely ad hoc terminable at any time without notice, so the order of termination shall not be hit by the contention of the learned counsel.

10. It shall be proper to refer to the latest decision of the Hon'ble Supreme Court in Delhi Development Horticulture Employees' Union Vs. Delhi Administration & Ors., JT 1992(2) SC 394 where the Apex Court has referred to the fact of first getting an employment in Government service by any method, then to try for its regularisation which was not otherwise permissible. In that case, the benefit of ad hoc service rendered under Delhi Administration was not given.

11. In view of the above circumstances, we hold that the application is devoid of merit and is dismissed leaving the parties to bear their own costs.

J. P. Sharma
(J.P. SHARMA) 27.3.92
MEMBER (J)

C. C. Jain
(P.C. JAIN) 27/3/92
MEMBER (A)