

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 PRINCIPAL BENCH
 NEW DELHI
 *** ***

O.A. No. 554/1991

Date of decision 19.5.1995

Hon'ble Shri S.R. Adige, Member (A)

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Nitya Nand Dhaundiyal,
 Senior Translator,
 R/O A-51, East Vinod Nagar,
New Delhi.

Ms. Kamini Bhardwaj,
 Senior Translator,
 R/O 25, Kamla Nehru Nagar,
 Ghaziabad, (UP)

Ms. Arun Lata,
 Senior Translator,
 R/O A-35, Preet Vihar,
 New Delhi.

... Applicants

(By Advocate Shri Vivekanand)

Vs.

1. Union of India,
 Through the Secretary,
 Ministry of Home Affairs,
 Government of India,
 Department of Official Languages,
 Lokanayak Bhawan, Khan Market,
New Delhi.
2. The Director,
 The Directorate of Central
 Translation Bureau,
 Paryavaran Bhawan, VIIIth Floor,
 Lodhi Road, New Delhi.
3. Assistant Director (Admn),
 Directorate of Central Translation Bureau,
 Paryavaran Bhawan, VIIIth Floor,
 Lodhi Road, New Delhi.

... Respondents

(None for the respondents)

ORDER

VS [Hon'ble Smt. Lakshmi Swaminathan, Member (J)] 7

The applicants, who were appointed on ad-hoc basis as Senior Translators in the Central Translation Bureau, Ministry of Home Affairs with effect from 15.2.1990, 24.1.1990 and 20.10.1989 respectively, apprehending that their services were to be terminated from 27.2.1991, filed this application in the Tribunal on 28.3.1991. The case came up for hearing on 4.3.1991 on which date the Tribunal passed an ad-interim order directing the respondents 2 and 3 not to terminate the services of the applicants as Senior Translators, if not already terminated, for the period of 14 days which was extended from time to time. The applicants have prayed for the following reliefs, namely -

- (1) To restrain the respondents from terminating their services;
- (2) To quash and set aside their order terminating their services; and
- (3) To direct the respondents to regularise their services from the initial date of joining their services.

2. This is an old case and has been appearing on the Board from 20.1.1995 although none has appeared for the respondents. On the last date of hearing, therefore, we heard the learned counsel for the applicants and have also perused the records in the case, including the replies filed by the respondents to the O.A. and Miscellaneous Petition No. 831/92.

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3. The applicants' claim is that they have been serving the respondents as Senior Translators for more than one year continuously. They state that they have been appointed on a regular basis after due process of advertisement of the posts, written test and interview against clear vacancies. In the circumstances, they state that the action of the respondents in terminating their services is illegal, arbitrary and unjustified and should, therefore, be quashed and set aside.

4. Shri Vivekanand, learned counsel for the applicants, had submitted that having regard to the judgment of the Tribunal in O.A. No. 1917/88 and O.A. No. 2240/88, which were heard together and disposed of by order dated 4.3.1994, a similar direction may be given to the respondents to regularise the services of the applicants in this case also w.e.f. the respective dates of the original appointments on ad hoc basis in consultation with the UPSC. Another submission made by the learned counsel, which has been raised in M.P.No. 831/92, is for directing the respondents to pay them the salary from 1.3.1991 to 19.3.1991 i.e. the intervening period after they filed this O.A. and the interim order passed by this Tribunal on 19.3.1991. In the interim order of this date, the applicants were permitted to join duty on the posts of Senior Translator and later from 20.3.1991 to 15.4.1991, upto 16.4.1991 for

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which period the applicants have been paid by the respondents but not for the earlier period between 1.3.1991 and 19.3.1991. Finally, by the order dated 16.4.1991, this Tribunal rejected the request for interim relief and vacated the ad-interim order dated 19.3.1991 and, thereafter, the applicants stood reverted to their parent departments.

5. We have carefully considered the arguments of Shri Vivekanand, learned counsel for the applicants and perused the records in the case. From the copy of the memorandum pertaining to the appointment of applicant No. 1 (Annexure A-3 - English translation), it is clear that the offer of appointment was on a purely ad-hoc basis, subject to termination at any time by one month's notice. The respondents have, in their reply, averred that each of the applicants is a permanent employee in their parent office and they continued to hold lien on their posts. From the afternoon of 28.2.1991, their services were returned to their respective parent offices. According to the respondents, one of the applicants (applicant No. 2) after opening the envelope containing the office order dated 27.2.1991 and reading the contents, refused to receive the letter and returned the envelope. The other two applicants, Nos. 1 and 3 abruptly left the office to avoid receiving the aforesaid order personally. They have also stated that no leave of any kind was sanctioned to the respondents on 5.3.1991 when the applicants claim that they

had reported for duty. The stand taken by the respondents is that the applicants services have not been terminated but they were only relieved from their duties as Senior Translators.

6. The interim order dated 4.3.1991 had directed the respondents not to terminate the services of the applicants as Senior Translators, if not already terminated. The respondents had consulted their parent departments before relieving them on 28.2.1991 (AN). Since the appointment of the applicants with the respondents was on a purely ad hoc basis, the applicants cannot claim any regularisation of the posts as a matter of right. We further find that on the facts of the case, the judgment of the Tribunal in O.A.No. 1917/88 and O.A. No. 2240/88 will not be of assistance to the applicants. In those cases, the applicants had continued in service with the respondents under the interim orders passed by the Tribunal between 5 to 6 years. This was a factor which had been taken into account by the Tribunal which fact is absent in this case, as the applicants have themselves admitted that they have only continuously worked for a period of one year before their repatriation to their parent departments. In the circumstances, the plea of the learned counsel for the applicants for a similar direction as was given in O.A. No. 1917/88 and O.A. No. 2240/88 is rejected.

HS

7. Since the applicants stood relieved from the services of the respondents with effect from 28.2.1991 (A.N.), they ought to have reported for duty in their parent departments which they have failed to do. It was only by the interim order dated 19.3.1991, as a stop gap measure, the Tribunal directed the respondents to permit the applicants to join duty on the posts of Senior Translators from 20.3.1991 till 15.4.1991. Since the hearing of the case on interim relief could not be completed on 15.4.1991 and was taken up on the next date, this interim relief was continued till that date. Reference has already been made to the vacation of the ad interim order on 16.4.1991. The respondents have paid their salaries for the month of February, 1991 on 5.3.1991, when they attended the office, but were not allowed either to mark their presence or do any work after the end of February, 1991. The respondents have, in their reply, stated that they have been relieved from the office of respondent No. 2 on 28.2.1991. Since, the applicants have admittedly not reported for duty in their parent departments between 1.3.1991 to 19.3.1991, they have not been paid. Their service records had also been sent to their parent departments.

8. From the above facts it follows that the

applicants have neither been allowed

after 28.2.1991 to work with the respondents/nor have they joined their duties with their parent departments for which they can claim pay from those departments between 1.3.1991 to 19.3.1991. Therefore, regarding the claim for salary from 1.3.1991 to 19.3.1991, the applicants have themselves brought about the situation where they have neither reported for duty in their parent offices for work or actually done any work in the office of the respondents. In the facts and circumstances of the case, therefore, they cannot be considered to be in service/or entitled to any salary for the period from 1.3.1991 to 19.3.1991. This case would, therefore, be squarely covered on the principle of 'No work - No pay' and their claim for pay for the period from 1.3.1991 to 19.3.1991 is, therefore, rejected.

9. In the result, the application fails and is dismissed. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Member (J)

Adige
(S.R. Adige)
Member (A)