

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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OA.1122/91

Date of Decision: 29th May, 92

Shri N.K. Anand

Applicant

Shri M.K. Gupta

Counsel for the applicant

Vs.

C.S.I.R. and Another

Respondents

Shri A.K. Sikri

Counsel for the respondents

CORAM:

The Hon'ble Mr. T.S. Oberoi, Member(J)

The Hon'ble Mr. B.N. Dhoundiyal, Member(A)

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

JUDGEMENT

(of the Bench delivered by Hon'ble Mr.B.N.Dhoundiyal)

This OA has been filed by Shri N.K. Anand under Section 19 of the Administrative Tribunal Act, 1985, challenging the impugned office order dated 27.3.1991, issued by the Director, National Physical Laboratory striking out the name of the applicant from the rolls of NPL wef. 31.3.1991.

2. The facts of the case are that applications for the posts of Junior Stenographers were invited by Respondent No.2, National Physical Laboratory, in 1989 and the applicant successfully competed with about 300 candidates, who appeared in the Shorthand and Typing test, his name figuring at Sl.No.3 in the panel. The respondents offered him, vide letter dated 5.7.89, a temporary

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post of Junior Stenographer in one of the projects at NPL, the duration of the project was upto March 1990, but was likely to continue. He joined his duties on 16.08.1989. The applicant earned an increment while working as Junior Stenographer and had not received any communication regarding his service till he received the impugned office order dated 27.3.91, informing him that consequent upon the expiry of the term of his appointment under NCTCF sponsored project on 31.3.91, the name of the applicant will be struck off from the rolls of NPL w.e.f. 31.3.91(AN). The representations against the order made on 1.4.91 and 12.4.91 did not elicit any reply from the respondents. The applicant claims that he should have been appointed against one of the regular four vacancies advertised by the respondents and even if he was assigned to a particular project, he should have been given extension like his other colleagues as the project is extended till the Eighth Five Year Plan i.e. 1995. This action of the respondents in terminating the services of the applicant and extending the services of other employees is arbitrary, discriminatory and ⁱⁿ violation of Article 14 of the Constitution. The applicant has worked from 16.8.89 to 31.3.91 without any break and is entitled to be regularised. Some regular vacancies are available due to the promotion of persons to the post of Senior Stenographer. The applicant has become over-age now for any other Government service. He prays for quashing the office order dated 27.3.91, directing the respondents to reinstate him in the post of Junior Stenographer and for regularising his services.

3. The respondents have ^{in the counter} stated that out of the ^{five} regular posts advertised, two were reserved for SC/ST and only two posts were available for general category. The applicant was placed fourth in the merit list. From time to time, CSIR is given specific projects, which last for a specific period and the applicant was

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admittedly appointed on a purely temporary basis against one such project called "National Coordination of Testing and Calibration Facilities (NCTCF). The appointment of the applicant was not a CSIR appointment and does not give him any right to claim a regular post. He was initially appointed till 31.3.90 and later his term was extended by one year upto 31.3.91. However, further extension could not be recommended as his work was found unsatisfactory and he did not improve even after warnings.

4. We have gone through the facts of the case and have heard the arguments of the learned counsel for both the parties. No explanation is given by the respondents as to why five posts were advertised and even if 2 posts were reserved later for SC/ST, the third post was not offered to the applicant, when the candidate standing third in the merit list had declined to join. It is also not clear how long the panel of eight candidates prepared by the respondents after due selection process would have remained valid. Though the applicant was appointed temporarily for a specific project, he had a strong claim to be appointed against a regular vacancy, as long as he was at the top of the panel. Even if we regard his status as purely temporary, we cannot ignore the fact that the project is still continuing and extension has been given to his other colleagues.

5. In the case of Jarnail Singh & Ors. Vs. State of Punjab & Ors., 1986(3) SCC Pg.277 at 292 (para 34), a reference has been made to ^{the case of} Manager, Government Branch Press Vs. D.B. Belliappa, ^{wherein} it has been held that the protection of Articles 14 and 16 of the Constitution will be available even to a temporary government servant, if he has been arbitrarily discriminated against and singled out for harsh treatment in preference to his juniors, similarly circumstanced. In that case the services of Belliappa,

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a temporary class IV employee, was terminated without assigning any reason although in accordance with the conditions of his service three other employees similarly situated, junior to Belliappa in the said temporary cadre, were restrained. The order of termination was held to be bad as it offended the equality clause in Articles 14 and 16 of the Constitution.

6. In the case of Dr (Mrs) P. Shere Vs. Union of India, 1989(2) SLR 422, it was held by ^{Bal}the Apex Court that even in case of the Adhoc appointees, if the termination of service is due to unsatisfactory work, the competent authority is under obligation to communicate the deficiencies to the official, otherwise the order would be arbitrary.

7. In the facts and circumstances of the case, we hold that, in this case, no notice was issued to the applicant that his services were not likely to be extended further due to unsatisfactory work. We therefore, set aside and quash the impugned order dated 27.3.91 and direct the respondents to treat the applicant as continuing to work with them after 31.3.91, i.e. the date of termination of his services within a month of receipt of this order. In the circumstances of the case, we do not order payment of any back wages and he will be paid his due salary from the date he actually joins his duties. He shall be eligible to be considered for appointment against regular vacancies, if any.

8. There will be no order as to costs.

(B.N. DHOUDIYAL)
(B.N. DHOUDIYAL) 29/5/92
MEMBER(A)

(T.S. OBEROI)
(T.S. OBEROI)
MEMBER(J)