

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

(6)

O.A. No. 39/1985. Date of decision: November 3, 1992.

Smt. M.D. Patwardhan & Others ... Petitioners.

Vs.

Director, Central Hindi
Directorate & Another ... Respondents.

CORAM:

HON'BLE MR. JUSTICE V.S. MALIPATH, CHAIRMAN.

HON'BLE MR. I.K. RASGOTRA, MEMBER (A).

For the petitioners ... Shri Makrand
D. Adkar and
Shri Braj K. Mishra,
Advocates.

For the respondents ... None.

JUDGMENT (ORAL)

(By: Hon'ble Mr. Justice V.S. Malimath, Chairman)

The three petitioners in this case, Smt.

M.D. Patwardhan, Shri Gulab Singh Bhati and Smt. Sharda
Yadav were appointed as Research Assistants in the Central
Hindi Directorate purely on ad hoc basis. Petitioners
1 and 2 were appointed as Research Assistants (German) on
13.9.1982 whereas the third petitioner was appointed as
Research Assistant (Czech.) on 14.9.1982. They have
continued to serve in the respective posts ever since
the dates of appointment without any interruption. As a
matter of fact, the orders of appointment do not restrict
their tenure for any specific period. All the petitioners
having served for nearly three years, made requests for
their services being regularised. When they were hoping
for a favourable reply, they were given to understand that

their services are likely to be dispensed with. In this background they rushed to the Tribunal for appropriate relief with this Original Application filed on 13.12.1985. The petitioners have prayed for a direction restraining the respondents from terminating their services and for a further direction to regularise their services as Research Assistants. After filing the Original Application, they were able to obtain an interim order on 18.12.1985 for the maintenance of the status quo. Liberty was, however, reserved to the respondents to move for vacating the said interim order if the circumstances warrant such a cause. The records do not show that any attempt was made by the respondents at any time for vacating or modifying the interim order on the ground that the services were no more required for the work for which they were appointed having come to an end and there being no need for their services in the department. The petitioners have thus continued in service after filing of the Original Application in the year 1985 for nearly seven years. So far as termination of their services is concerned, no action has been taken at any time during the pendency of these proceedings nor was the Tribunal moved for granting permission to terminate their services.

2. In the reply filed by the respondents there is no indication that it has become necessary for the respondents to terminate the services of the petitioners.

✓ In this background, we are inclined to take the view

that there is no real and genuine threat of termination of the services of the petitioners. Hence, the first relief for a direction to restrain the respondents not to terminate the services of the petitioners need not detain us.

3. The principal question for consideration is as to whether the petitioners are entitled to claim at our hands direction for regularisation of their services as Research Assistants in the respective posts. The petitioners do not rely upon any statutory provision or the terms of appointment or conditions of service which confer on them the right for regularisation of their services. The petitioners however, maintain that though they have no such right flowing either from the statutory provisions or from the terms of appointment or conditions of service, they are entitled to be treated reasonably and not arbitrarily. Arbitrariness is something which is frowned upon by the Constitution as is clear from Articles 14 and 16 of the Constitution. Whenever any action or inaction on the part of the Government is challenged as violating the provisions of Articles 14 and 16 of the Constitution, Court has necessarily to examine the complaint on the touchstone of arbitrariness. It is from this angle we have to examine as to whether the circumstances justify an inference that the action of the respondents in not regularising the services of the petitioners can be regarded as manifestly unreasonable or arbitrary. The Supreme Court has on several

occasions when faced with similar situations ~~has~~ tried to mould appropriate relief in order to do justice to the parties. Whenever the conduct or action of the government is found to be arbitrary, the courts have not hesitated to issue appropriate directions to do justice. We may advert to one such decision of the Supreme Court reported in 1987 (Supp.) S.C. 497 between DR. A.K. JAIN & ORS. & U.O.I. AND OTHERS. That was a case in which Assistant Medical Officers (Class II) were appointed on ad hoc basis in the Railways between 1983 and 1986. Services of some of them came to be terminated. The services of those appointed on ad hoc basis were initially for a period of six months and were extended from time to time. It is in this background that the Supreme Court examined the facts and circumstances bearing on the question and issued directions to regularise the services of ad hoc appointees in consultation with the Union Public Service Commission on the evaluation of their work and conduct and on the basis of their confidential reports. In this background we shall examine if the facts and circumstances of this case merit similar direction being issued in favour of the petitioners for regularisation of their services as Research Assistants.

4. There are Recruitment Rules for the post of Research Assistants in Hindi which are analogous posts.

The rules prescribe 30 years as maximum age for recruitment.

✓ So far as the petitioners before us are concerned, their

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dates of birth are 25.9.1955, 29.10.1952 and 6.10.1957 respectively. Petitioners 1 and 2 were appointed on 13.9.1982 whereas the third petitioner was appointed on 14.9.1982. All of them were within the age of 30 years on the respective dates when they were appointed on ad hoc basis. They would all be age barred if they are now required to offer themselves as candidates for recruitment to such and similar posts. The fact that the petitioners would be over-aged is undoubtedly a circumstance to be taken into account. One of the grounds taken by the respondents in their reply is that they had themselves made an attempt to prescribe recruitment rules governing the appointment of the petitioners but they did not mature on the assumption that the work for which the petitioners had been appointed is not likely to last long. The assessment made stands belied by the subsequent events that have taken place. The petitioners have continued in service for nearly 10 years. Liberty was given by the interim order passed by the Tribunal to the respondents to take steps for vacating or modifying the order if the circumstances so justify. No such steps were taken by the respondents during the last seven years. If there was no work for the petitioners, the respondents would have undoubtedly moved the Tribunal for appropriate modification of the interim order. The respondents have not placed any material before us to show that the work for which the petitioners have been appointed is not likely to last for a longer period. On the contrary, the material

placed by the petitioners shows that the work for which the petitioners were appointed is of importance and likely to require a long time. It is, therefore, not possible to take the view that this is a case in which the respondents would have resorted to the method of ad hoc appointment. It is well settled that ad hoc appointments are required to be made only as a stop gap arrangement and not for years and decades. This is another aspect to be borne in mind. So far as qualifications of the petitioners are concerned, we find that they possess qualifications similar to those prescribed by the statutory rules for Research Assistants(Hindi) in the Central Hindi Directorate. The first petitioner has a M.A. Degree in German in 1st Division. She has Diploma in Spanish and we were informed that she is currently doing her M.A. in Hindi. So far as the second petitioner is concerned, he holds M.A. Degree in German in Second Division. He holds M.A. Degree in Hindi. So far as the third petitioner is concerned, she holds M.A. Degree in History in Czech medium from Charles University Prague. She is M.A. in Hindi. She has passed Diploma I and II (Spanish). We are informed that she is also doing her M.A. in English. These facts make it clear that all the three petitioners not only hold the requisite qualifications but also possess additional and higher qualifications. We are informed that the first two petitioners are presently engaged in preparing German-Hindi Dictionary and the work completed so far is of alphabets from A to L and work from P to S is under progress.

This would indicate that for completing the remaining portions of the Dictionary, it would certainly take a long time.

So far as the third petitioner is concerned, she was engaged in preparation of Czech-Hindi Dictionary which work has since been completed. She has now been assigned different work of preparing a grammar for Czech-Hindi and we were informed that this also involves considerable work requiring several years. This information, in our opinion, justifies the inference that there is need to continue the services of the petitioners for several years to come. As the petitioners are involved in such a serious type of academic work, it would be in the interest of administration that they are continued. Another aspect to be borne in mind so far as the employment in government service is concerned is that it is in the interest of administration that the employees are able to work in an atmosphere free from worries and anxieties. An employee would not be in a position to give his/her best if sword of termination hangs on his or her head. It is, therefore, not in the interest of public administration that ad hoc appointments should continue for unduly long period as has been done in the present case. It is in the interest of administration itself to regularise the services of the persons concerned whenever there is need for their services on a long term basis. The very fact that the petitioners have been continued for nearly ten years now would justify

the inference that the administration is satisfied with

the work they are doing. Regularisation of the petitioners' services is not likely to affect the rights of others.

5. Having regard to all these circumstances, we are inclined to take the view that this is a case in which continuance of the petitioners on ad hoc basis any further would be manifestly unreasonable and arbitrary and not in the interest of the administration itself. Hence, this petition is allowed. We hereby direct the respondents to regularise the services of the petitioners with effect from the respective dates of their original appointment on ad hoc basis in consultation with the Union Public Service Commission and on evaluation of their Confidential Reports in respect of the period from the dates of their respective appointments within a period of six months from the date of receipt of a copy of this judgment. No costs.

I. K. Rasgotra
(I.K. RASGOTRA)
MEMBER (A)

V. S. Malipath
(V.S. MALIPATH)
CHAIRMAN