

CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

(Order reserved on 28.04.2021)

O.A.No.060/1237/2019

Chandigarh, this the 18th day of May, 2021



**CORAM: HON'BLE MS. JUSTICE VIJAY LAKSHMI, MEMBER(J)
HON'BLE MS. AJANTA DAYALAN, MEMBER (A)**

1. Gurleen Kaur Puri, aged about 29 years D/o Sh. Jitender Singh Puri, R/o #3404, Sector 23-D, Chandigarh Pin-160023, U.T. Chandigarh.
2. Sipika Rani aged about 28 years, D/o Sh. Ramesh Kumar, R/o V&P.O. Kot-Sukhia, Pin-151207, District Faridkot (Punjab).
3. Sandeep Kumar, aged about 29 years S/o Sh. Kamal Kishore, R/o #NN 445 Gopal, Near Pili Kothi, Jalandhar, Pin-144001 (Punjab).
4. Sheenu Bala, aged about 29 years, D/o Sh. Pawan Kumar, R/o #2203, Lakh Wali Basti, Near Durga Mandir, Patran, Pin-147105, District Patiala (Punjab).
5. Swaranjeet Singh Sidhu, aged about 28 years S/o Sh. Gurmeet Singh Sidhu, R/o #7664, Park Road, Shaheed Bhagat Singh Nagar, Gidderbaha, Pin-152101, District Sri Muktsar Sahib (Punjab).
6. Tajeshwar Rao Singh Rathore, aged about 30 years, S/o Sh. Uttamjot Singh Rathore, R/o 1-C, Ranjeet Nagar, Tiwana Chowk, near Sachdewa Hospital, Patiala, Pin-147001 (Punjab).
7. Manish Kumar, aged about 28 years, S/o Shy. Subhash Chand, R/o H.No. 32, Village Rukri, Post Office Dheen, Pin-133202, Tehsil Barara, District Ambala (Haryana).
8. Anamika, aged about 31 years, D/o Sh. Harbhajan Lal, R/o #10, Street No.4, Opposite MITC Colony, Khairpur, Sirsa, Pin-125055 (Haryana).
9. Ankush Sharma, aged about 30 years, S/o Sh. Desh Raj Sharma, R/o V&PO, Jansooch, Tehsil Nadaun, District Hamirpur, Pin-177041 (H.P.).
10. Monisha Sharma, aged about 30 years D/o Sh. Shamsher Singh, R/o Village Chichoga, Post office Manali, Pin-175131 Tehsil Manali, District Kullu, (H.P.).
11. Lalit Kumar, aged about 230 years, S/o Sh. Hari Om Sharma, R/o #12-A, New Dayal Bagh, near R.K. Furniture House, Babyal Road, Post Office Babyol, Pin-133005, Ambala Cantt (Haryana).
12. Gaurav Bhargava, Aged about 28 year, S/o Sh. Vinod Bhargava, R/o H.No. 61, Sector-5, Urban Estate, Kurukshetra, Pin-136118 (Haryana).



13. Amanpreet Kaur, aged about 30 years, D/o Sh. Paramjit Singh, R/o V&P.O. Khizrabad, District Mohali, Pin-104109 (Punjab).
14. Karandeep Bansal, aged about 31 years, S/o Sh. Janak Raj Bansal, R/o 609, Urban Estate, Phase-II, Patiala, Punjab (Pin-147002).
15. Deepak Kumar, aged about 30 years, S/o Sh. Ramesh Kumar, R/o Village Rewari Khera, Tehsil Bahadurgarh, District Jhajjar Pin-124504 (Haryana).
16. Atinder Pal Singh, aged about 29 years, S/o Sh. Hardev Singh, R/o V&PO Mohra Pin 133004 District Ambala (Haryana).
17. Zia Ur-Rehman, aged about 29 years S/o Mohd. Latief, R/o Village, Chhunjan Tehsil, Mendhar, Pin-185111, District Poonch (Jammu and Kashmir).

All applicants concerns, Group A post.

(BY ADVOCATE: MR. HARINDER SHARMA)

Applicant

Versus

1. Union of India, Ministry of youth Affairs and Sports (Youth Affairs Wing), Shastri Bhawan, C-Wing, New Delhi, Pin Code-110001.
2. Chairman, Board of Governing Body, Nehru Yuva Kendra Sangathan, Ground Floor, 4 Jeevan Deep Building, Parliament Street, New Delhi-110001.
3. Nehru Yuva Kendra Sangathan, through its Director General, Ground Floor, 4 Jeevan Deep Building, Parliament Street, New Delhi-110001.
4. Broadcast Engineering Consultants India Ltd. (BECIL), through its Managing Director, 14-B, I.P. Estate, Ring Road, New Delhi-110002.
5. Assistant General Manager (HR), Broadcast Engineering Consultants India Ltd. (BECIL), C-56, A-17, Sector-62, Noida Pin-201301 (U.P.).
6. Zonal Director, Nehru Yuva Kendra Sangathan, Punjab and Chandigarh, Jwalamukhi Hostel, Gate No.1 Punjab Engineering College, Sector 12, Chandigarh, Pin Code-160012.
7. Zonal Director, Nehru Yuva Kendra Sangathan, Haryana, Jwalamukhi Hostel, Gat No.1, Punjab Engineering college, Sector 12, Chandigarh, Pin Code-160012.
8. Zonal Director, Nehru Yuva Kendra Sangathan, Himachal Pradesh zone, Chander Building, Toto, Shimla Pin-171011 (H.P.).
9. Zonal Director, Nehru Yuva Kendra Sangathan, Jammu and Kashmir zone, 39 A/C Gandhi Nagar, Jammu (J&K), Pin-180004.

(BY ADVOCATE: MR. MUKESH KAUSHIK)

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Respondents



ORDER
HON'BLE MRS.AJANTA DAYALAN, MEMBER(A)

The present Original Application has been filed by applicant Gurleen Kaur Puri and 16 others seeking quashing of the orders dated 8.11.2019 (Annexure A-1) and 7.11.2019 (Annexure A-2) passed by the respondents discontinuing their services as Programme Coordinators with Broadcast Engineering Consultants India Ltd. (BECIL) w.e.f. 1.11.2019. The applicants have also sought continuance of their service as Programme Coordinators for the remaining period of 3 years from the date of termination or till the completion of the projects; and alternatively to direct the respondents to pay them salary and other allowances for such remaining period.

2. All the applicants were engaged as Programme Coordinators for Nehru Yuva Kendra Sangathan which is an autonomous body of the Government of India. It organizes developmental activities for the rural youths under various projects through Kendras at district level named as Nehru Yuva Kendras. Each Nehru Yuva Kendra comprises of three posts – one each of District Youth Coordinator (DYC), Accounts Clerk-cum-Typists and Peon-cum-Chowkidar. Number of posts of District Youth Coordinator were lying vacant in various Nehru Yuva Kendras throughout the country adversely affecting their functioning. Accordingly, Nehru Yuva Kendra Sangathan – that is Respondents No.2 and 3 engaged Broadcast Engineering Consultants India Limited (Respondent no.4) for recruitment of Programme Coordinators across India. Respondent No.4 – that is Broadcast Engineering Consultants India Limited (BECIL)



issued advertisements dated 9.3.2018 and 9.4.2018. All the applicants applied against these advertisements and were appointed. One such letter of appointment dated 11.10.2018 in respect of applicant no.1 is attached as Annexure A-6. Similar letters of appointment were issued to the other applicants. All the applicants joined as District Youth Coordinators. However, vide impugned orders, their services have been terminated w.e.f. 1.11.2019.

3. The case of the applicants is that as per advertisements issued on 9.3.2018 and 9.4.2018 as well as another advertisement given in Employment News, the term of appointment of Programme Coordinators was 3 years. In support of their claim, the applicants have attached copies of these two advertisements at Annexure A-3 (Colly). The case of the applicants is that despite this, their services have been terminated w.e.f. 1.11.2019 – that is just a little over one year after their initial appointment.

4. Besides above, the applicants have raised number of other arguments in their effort to prove that the orders of termination of their appointments are unjustified and illegal. Firstly, they have stated that process of appointment was through a tough process of selection of a very high standard. A written test of 75 marks was conducted followed by interview of 25 marks. The applicants were also made to undergo training/mentoring. The applicants were required to belong to the State concerned and on selection were to be deployed in the concerned state only. The Registration fee was as high as Rs.1,500/- for general candidates and Rs.500/- for reserved category candidates. They have also quoted some assurances



given by "authorities of Director Level in the offices of Respondents No.3 and 4" that they will be assessed on the basis of their performance of the duties and may be considered for continuance and for their regularization on the posts of District Youth Coordinators. Further, they have stated that even TA/DA was given to them vide Memo dated 7.12.2018 (Annexure A-10) which is certainly not justified for a short duration of appointment of one year only. In one case of Ms. Anamika, she was transferred from Fatehabad to Kaithal vide order dated 4.12.2018. All these indicate that their appointment was for a longer duration. They have also stated that the reply of the respondents dated 10.1.2019 (Annexure A-11) in response to RTI Application of the applicants shows that contractual tenure of their appointment was for a period of 3 years.

5. The applicants have further stated that they had earlier filed O.A.No.060/1076 of 2019 before this Tribunal. The Tribunal vide order dated 16.10.2019 (Annexure A-15) directed the respondents to decide the representation of the applicants within a period of 15 days. In furtherance thereto, the applicants had also submitted supplementary grounds for consideration of their representations along with their notice for compliance on 23.10.2019 (Annexure A-16 colly). It is in compliance of this order of the Tribunal that the respondents have passed the impugned orders now being challenged in this O.A.

6. In view of all above, the applicants have pleaded that they are entitled to relief being claimed in the O.A and the same needs to be granted to them.



7. The respondents have strongly contested the claim of the applicants. They have stated that no regular recruitment was done in the Nehru Yuva Kendra Sangathan for about 20 years. As a result, as many as 824 posts of different categories got lapsed, leading to huge crunch of man power at every level particularly at the level of District Youth Coordinators which is the cutting edge of implementation of programmes for which the Nehru Yuva Kendra Sangathan has been mandated. As a result, the Parliamentary Standing Committee had recommended that pending revival of post by Ministry of Finance and subsequent regular recruitment by Nehru Yuva Kendra Sangathan for the posts of District Youth Coordinators and other categories, contractual Programme Coordinators be hired to look after the work of District Youth Coordinators across the country. This recommendation of the Parliamentary Standing Committee was ratified by the Board of Governors of Nehru Yuva Kendra Sangathan. The engagement was clearly in substitution for the post of District Youth Coordinators till regular recruitment of District Youth Coordinators was made after revival of the posts by the Ministry of Finance.

8. The respondents have further stated that in this process, it was decided to hire Broadcast Engineering Consultants India Limited i.e. BECIL (Respondent No.4) and an agreement was signed between the Nehru Yuva Kendra Sangathan and the BECIL for supply of Programme Coordinators initially for a period of one year and extendable for two more years.

9. The respondents have categorically stated that the applicants have falsely submitted that the BECIL had advertised



for 3 years tenure. They have stated that plain and simple reading of the advertisement itself makes it clear that the BECIL had mentioned that recruitment was purely on contract basis. There is no mention of 3 years period. It is also nowhere mentioned that they were being hired for any specific project. Hence, the argument of the applicants is not based either on merits or even on facts. In support of this contention, the respondents have attached the original advertisement issued by the BECIL in leading newspapers as Annexure R-1.

10. In furtherance of their arguments, the respondents have stated that even clause 1 of the deployment letter issued by the BECIL – that is respondent no.4 to the applicants is relevant and establishes the point that initial hiring was for a period upto 31.3.2019 or till duration of the project, whichever was earlier. Thus, their initial period of hiring was only for a period of 6 months and not 3 years as stated by the applicants.

11. The respondents have further stated that as per agreement between the Sangathan and the BECIL – that is Respondent No.4, latter invited applications for deployment of the Programme Coordinators. In the process, they conducted examination and issued appointment letters to selected candidates directly on 11.10.2018. No appointment letter has been issued by the Sangathan. Thus, it is not disputed that the BECIL was the principal employer of the applicants and not the Sangathan.

12. The respondents have further gone on to state that the terms of agreement between the Sangathan and the BECIL, inter-alia state as under :-



"For all intents and purpose, the Agency shall be the "Employer" within the meaning of different Labour Legislations in respect of the discharging the said assignment. The persons deployed by the Agency in the NYKS shall not lay any claims of Master and Servant relationship nor have any principal and agent relationship with or against the NYKS. They shall in no case be entitled for claiming regularization / employment in the NYKS on the basis of having rendered services through the Agency"

13. Respondents have, therefore, concluded that as per this agreement there is no doubt, whatsoever, that the BECIL was the employer of the persons deployed by the Agency in the Sangathan and applicants had no claim of master and servant relationship with the Sangathan. They were also not entitled to claim regularization in the Sangathan on the basis of having rendered services through the agency.

14. Further, it is stated that the BECIL through its letter dated 21.5.2019 extended the contractual appointment from 1.4.2019 to 31.10.2019 on existing terms and conditions of the deployment letters. Meanwhile, the Sangathan received approval from the Ministry of Finance for revival of posts, including the posts of District Youth Coordinators. As such, the process of recruitment of regular District Youth Coordinators was initiated in 2018 through Institute of Banking Personnel Selection in phases. It was expected that almost all the sanctioned posts will be filled up by end of November 2019. Hence, the stop-gap purpose for which Programme Coordinators were engaged on contractual basis stood fulfilled. As such, the BECIL was informed vide letter dated 22.8.2019 that agreement between the Sangathan and the BECIL will stand terminated w.e.f. 31.10.2019.

15. Finally, the respondents have highlighted that in view of the fact that the District Youth Coordinators stand recruited and the agreement between the Sangathan and the BECIL



stands terminated, the services of the applicants cannot be continued in the Sangathan. It is also not possible to continue their service since their induction is not against any specified project but was only as a stop gap arrangement till such time District Youth Coordinators were appointed on regular basis in the Sangathan.

16. It is also contended by the respondents that the Nehru Yuva Kendra Sangathan has not done anything which can be termed as violation of Industrial Dispute Act or principles of natural justice. The applicants were informed more than two months in advance that their contract period will be over by 31.10.2019. Thus, their services were not terminated without prior notice or abruptly.

17. The respondents have also stated that applicants were engaged under a specific contract and they were supposed to abide by terms and conditions contained therein. They were not entitled to protection like regular government servants under Article 311 of the Constitution of India. They were to be governed by specific terms and conditions of the contract and the appointment letters. As such, they cannot be allowed to turn around and claim that there has been violation of principles of natural justice.

18. The respondents have also relied upon judgments in the cases of **Director, Institute of Management Development, U.P. Vs. Smt. Pushpa Srivastav** (1992) 4 SCC 33 and **State of Uttar Pradesh and Another Vs. Kaushal Kishore Shukla** (1991) 1 SCC 691.



19. In view of the above, the respondents have concluded that the applicants were never engaged by the Sangathan directly. They were engaged through the BECIL for discharging the services of District Youth Coordinators as a stop-gap arrangement till regular recruitment is made. Their engagement was purely on contract basis and was governed by the terms of the contract. 3 years period was nowhere mentioned either in the advertisement issued by the BECIL or in the engagement letter issued by the Agency to the applicants. As such, the applicants have no claim to continuance of their service for 3 years. The claim of the applicants that the advertisement indicated a term of 3 years is not at all based on facts. District Youth Coordinators already stand recruited and have joined the posts. As such, O.A. has no merit and deserves to be dismissed.

20. We have heard the counsel of opposing parties and have also gone through the pleadings. We have given thoughtful consideration to the entire mater.

21. First of all, we note that much has been said by the applicants about their term of contract being 3 years. However, we find that the respondents have attached as Annexure R-1, the advertisement issued by the BECIL (Respondent No.4) inviting applications for the posts of Programme Coordinators. We have perused the Annexure R-1 carefully and word-by-word. Nowhere, the advertisement states that the term of contract is 3 years. The only place where 3 years term is used is under eligibility criteria where 3 years experience has been shown as desirable. Right from beginning till the end, at no place it is stated that the term is for 3 years. The lead sentence states as follows "Applications are invited for recruitment/empanelment of



Programme coordinators purely on contract basis for deployment in the field offices of Nehru Yuva Kendra Sangathan (NYKS), located all over India". Thereafter, there is Eligibility Criteria and Selection Procedure and then the process for application as well as closing date etc. Even the two advertisements dated 9.3.2018 and 9.4.2018 attached by the applicants as Annexure A-3 Colly have the same content as Annexure R-1 and lead to the same conclusion. Hence, the contention of 3 years tenure of the applicants is not based on facts at all.

22. Secondly, we note that even the deployment letter dated 11.10.2018 (Annexure A-6) attached by the applicants themselves does not indicate the period of 3 years being the term of appointment (as is being claimed by the applicants). Rather, Clause 1 of this letter reads as follows :-

"This contract is initially for a period from date of joining to 31.03.2019 or till the duration of the project whichever is earlier. This contract can be further reviewed as per the terms and conditions mutually agreed upon. If the contract is not reviewed on or before expiry of its validity period, it will automatically terminate on the expiry of the period mentioned above. The contract will also terminate if the project awarded by NYKs to BECIL is terminated. However, notwithstanding anything mentioned above this contract can also be terminated by either side by giving 15 days notice in writing or on payment of equivalent fee in lieu thereof. However, acceptance of payment by the company shall be at its discretion".

It is thus crystal clear that the contract was for a period from date of joining to 31.3.2019 or till the duration of the project whichever is earlier. Thus, even in case of continuation of project the contract was to be terminated on 31.3.2019 – because of the term "whichever is earlier". Further, the contract was to be automatically terminated if not reviewed on or before expiry of its validity period. Besides, the contract could be terminated by giving 15 days notice in writing. In view of above, it is clear that



there is no case, whatsoever, for the claim of the applicants that term of the contract was 3 years.

23. Next, we note that having accepted these terms of engagement, the applicants have no right, whatsoever, now to turn around and make claims which are clearly against these terms of engagement, which already stand accepted by them.

24. Further, we note that the applicants have raised number of subsidiary issues in their effort to prove that the term of appointment was for a longer duration. These include issues like tough selection process, high registration fee, payment of TA/DA and transfer. In that regard, we note that BECIL was the agency chosen for making Programme Coordinators available to the Sangathan. It adopted the selection process which it thought would make available persons suitable and desirable for the job expected of them. However, whatever selection process adopted and whatever registration fee collected, cannot entitle the applicants to claim continuance or regularization in the job in violation of the terms of contract. Payment of TA/DA and transfer cannot be made a ground to violate or modify the terms of contract. Incidentally, the single transfer quoted by the applicants was a request transfer. All these issues cannot be used to violate the defined, specific and clear terms of their contract already accepted by the applicants. In regard to claim based on information received by the applicants in response to query under RTI Act, the 3 years term quoted in the reply to RTI was with reference to the contract between the Sangathan and BECIL and not vis-à-vis the applicants. This is clear from Annexure A-11. Hence, we do not consider these issues to be basic or even relevant for decision in this case.



25. We also find that one of the important factors in this case is that neither the advertisement inviting applications was issued by the Nehru Yuva Kendra Sangathan nor the deployment letters of the applicants were issued by it. Hence, the applicants were not engaged by the Sangathan directly. There is, therefore, no primary relationship of employer-employee between the Sangathan and the applicants.

26. Next important factor is misconception about the term "project" as it has been used by different parties in different contexts. The Nehru Yuva Kendra Sangathan and BECIL have used the term Project in respect of the agreement awarded by the Sangathan to BECIL to make available services of Programme Coordinators to the Sangathan. It was this project which was initially for one year and extendable by two more years. But obviously, its continuation was only for the duration the Sangathan needed the services of Programme Coordinators. This project was only a stop gap arrangement till the posts were revived and regular recruitment was made thereagainst. This 'project' is not to be confused with the contract between the applicants and BECIL, which is at a different footing altogether and has been dealt with by us earlier in this order.

On the other hand, the applicants have used the term project in respect of various activities undertaken by the District Youth Coordinators. But, the Programme Coordinators were not engaged against any such specific project. They were engaged to coordinate all such activities undertaken in a District Yuva Kendra. This fact is also obvious from the very constitution of the Kendra which includes only 3 sanctioned posts – one each of District Youth Coordinator, Clerk-cum-Typist and Peon-cum-



Chowkidar. Hence, the question of continuance of such “project” is not relevant as different projects continue in a particular Kendra at the same time. This point has been very well explained in the order dated 7.11.2019 (Annexure A-2) issued by BECIL.

In any case, the applicants are bound by the terms of their own contract with BECIL and are not to be governed by agreement between the Sangathan and BECIL.

27. Besides, we note that in terms of law laid down by the Hon'ble Apex Court in the case of **Secretary, State of Karnataka vs. Uma Devi & ors.**, (2006) 4 SCC 1, it has been held that there can be no concept of conferment of permanency on those who are working on adhoc or on temporary basis and whose selection is not based on the process as envisaged by the rules. Doing so would be negation of the principle of equality of opportunity in public appointments. In view of this also, no case is made out for continuation of the applicants in the posts of Programme Coordinators. This is more so in the present case as the recruitment process has already been completed, letters of appointment have been issued and most of the District Youth Coordinators have joined.

28. We also observe that no recruitments were made against the posts of District Youth Coordinator for a period of about 20 years and there was huge backlog of vacancies in the cadre, resulting in lapse of posts. As such, Parliamentary Standing Committee had recommended revival of posts and meanwhile to engage Programme Coordinators on contact basis. The Board of Governors had approved these recommendations. It was in furtherance of this decision that the process for



recruitment of regular District Youth Coordinator was undertaken. Meanwhile, Programme Coordinators were hired to discharge their functions. It is, thus, clear that the Programme Coordinators were meant as a stop gap arrangement to discharge the functions of District Youth Coordinators to fill the gap due to huge vacancies of District Youth Coordinators.

29. In view of all above, we are of the clear opinion that the applicants have no case whatsoever. They were never directly engaged by the Sangathan. Their term of engagement was nowhere mentioned as 3 years – neither in the advertisements dated 9.3.2018 and 9.4.2018 nor in their deployment letters. Rather, Clause 1 of their engagement letter clearly states that their contract was only upto 31.3.2019 or till the duration of the project, whichever is earlier. Having accepted these terms of engagement, the applicants are obliged to abide by them and cannot be allowed to turn around and claim benefits which are directly in violation of these terms of engagement. The issues raised by the applicants regarding tough selection process, high registration fee, payment of TA/DA and transfer cannot be used to modify or deviate from the terms of contract. All these may have been with the purpose of attracting better talent to ensure better discharge of the functions of the Kendras. The fact is also that the process for regular recruitment of District Youth Coordinator was initiated and has been completed. Most of them have already joined. As the applicants have been replaced by regularly recruited persons, no case is made out for their continuance.

30. We have also perused the impugned orders very carefully. We find that these are based on facts and are logical



and well-reasoned and have been passed after due application of mind. These are as per the law laid down by Hon'ble Apex Court in the case of Uma Devi (supra). We, therefore, do not find any reason, whatsoever to interfere with the same.

31. In view of all above, the O.A. is found to be devoid of any merit. It is dismissed accordingly.

32. There shall be no order as to costs.

(AJANTA DAYALAN)
MEMBER(A)

(JUSTICE VIJAY LAKSHMI),
MEMBER (J)

Place: Chandigarh
Dated: May 18, 2021

HC*