



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 2058/2019

This the 08th day of January, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Keshav Sharma,
S/o Vishnu Dutt,
Aged 30 years,
Legal Assistant,
R/o C-44 Silver Oak Apartments,
I.P.Extension, Patparganj, Delhi – 110092.
2. Nigar Khan,
D/o H.A. Khan,
Aged about 29 years,
R/o T-1, Flat No. 1301, Supreme Tower,
Sector-99, Noida, U.P. 201304.
3. Bushra Parveen,
W/o Manan Oberoi,
Aged 33 years,
Legal Assistant,
R/o 6/23 Nirmal Puri,
Lajpat Nagar IV New Delhi – 110024.

... Applicants

(through Ms. Nishtha Kumar, Advocate)

Versus

1. L.G. of Delhi,
Through Secretary Land & Building,
B-Block, Vikas Bhawan,
I.P. Estate, New Delhi – 110002.
2. G. Narender Kumar,
Pr. Secretary,
Land & Building Department,
B-Block, Vikas Bhawan,
I.P. Estate, New Delhi – 110002.

3. Satish Kumar Sharma,
Assistant Standing Counsel,
Land & Building Department,
B-Block, Vikas Bhawan,
I.P. Estate, New Delhi -110002.

4. Qudrat Pasha,
Assistant Legal Advisor,
Land & Building Department,
B-Block, Vikas Bhawan,
I.P. Estate, New Delhi – 110002.



... Respondents

(through Mr. Sanjay Kr. Pathak, Advocate)

ORDER (Oral)

Justice L. Narasimha Reddy, Chairman:

The applicants were appointed as Legal Assistants on contractual basis by the Govt. of NCT of Delhi, Land & Building Department, through an order dated 26.07.2016. It was on consolidated pay of Rs. 35,000/- per month and for a period of one year. It was being extended from time to time. This OA is filed with a prayer to direct the respondents to regularise their service against the sanctioned posts, in consonance with Articles 14, 16, 21 and 23 of the Constitution of India, and to direct the respondents to take necessary steps in this behalf.

2. The applicants contend that ever since they were appointed on contractual basis, they are discharging their

duties without any compliant and their induction itself was on ensuring compliance with necessary requirements. It is also the grievance of the applicants that the respondents did not pay the emoluments regularly. They have also expressed their reservations about advertisement issued by the respondents proposing to engage Legal Assistants on contractual basis. It is stated that the respondents are under the obligation to regularise the services of the applicants and place them in the corresponding pay scale.



3. The respondents filed a detailed counter affidavit. It is stated that appointment of the applicants was purely on contractual basis, for a limited period and it is not against the cadre post. They further contend that the disciplinary proceedings were initiated against the applicants No. 1 and 3 and that resulted in termination of their services through order dated 07.09.2020.

4. We heard Ms. Nishtha Kumar, learned counsel for the applicants and Mr. Sanjay Kr. Pathak, learned counsel for the respondents.

5. It is not in dispute that the applicants were appointed as Legal Assistants thorough order dated 26.07.2016. It was on contractual basis and on consolidated remuneration. The order reads as under:-

“ORDER

On the recommendation of Selection Committee dated 28.06.2016 and consequent upon acceptance of term and conditions, the following advocates are hereby appointed as Legal Assistant purely on CONTRACT BASIS with consolidate remuneration of Rs.35,000/- per month with immediate effect:-



S.No.	Name	Address & Contact No.
1.	Sh. Keshav Sharma	A-64, 2 nd Floor, Amrit Nagar, South Extn., Part-I, New Delhi-110049 Mob.9266178888
2.	Ms. Nigar Khan	5/385, 1 st Floor, Trilok Puri, Delhi-110091 Mob. 9810576482
3.	Ms. Bushra Praveen	L-2, Taj Enclave, Geeta Colony, Delhi-110031 Mob. 9899217734

Further, the above advocates are hereby directed to report to Dy. Legal Advisor, L&B Department for their duties.”

The applicants claim the relief in the form of direction to the respondents to regularise their services.

6. In the context of regularisation of employees appointed on contractual basis, the law is fairly well settled. The Hon’ble Supreme Court deprecated the practice of making appointments on contractual basis against the regular vacancies for a long period, in its judgement in **Secretary, State of Karnataka & others v. Umadevi & others**, (2006) 4 SCC 1. It was directed that as a one-time measure a scheme can be framed for regularisation of

contractual employees, who have completed 10 years of service. There again, it was subject to the condition that the engagement was against clear vacancy in a cadre and the employees fulfil the qualifications stipulated therefor. The relaxation, if at all, was only in context of the age limit, to the extent of length of service rendered by them. They were also required to undergo the same selection process, which is prescribed under the relevant Recruitment Rules.



6. In the instant case, the applicants are not able to point out that there exists any cadre of Legal Assistant, much less they are able to refer to any Recruitment Rules. The occasion to direct the respondents to regularise the services of the applicants would arise, if only their engagement was made against the regular vacancies. Once the vacancies itself is not in existence, the issuance of a direction becomes untenable.

7. Secondly, the facility of regularisation of contractual employee was on completion of 10 years of service, that too, as a onetime measure. The applicants have completed hardly three years of service by the time the OA was filed. Added to that, two of them have already been terminated by issuing notices. It is only the 2nd applicant, who is continuing in service. If any emoluments are due to him, the respondents

shall clear the same on receiving any representation in this behalf.

8. We, therefore, dispose of the OA declining the relief of regularization of service of the applicants, but directing that if any emoluments are due to the applicants, it shall be open to them to make representations in this behalf and on verification of the relevant facts, the respondents shall pass appropriate orders within four weeks from the date of receipt of such representation. There shall be no order as to costs.



(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

lg/pj/sunil/jyoti/ankit/