

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH ALLAHABAD

O A No.660 of 1992

N.D.Oobriyal & others

Applicants

Versus

Union of India & others

Respondents

Hon'ble Mr. Maharaj Din - DM

Hon'ble Mr V.K. Seth - AM

(By Hon'ble Mr. V.K. Seth- AM)

In this O A, the applicants, who are Group-A,B,C & D Employees in the erstwhile Forest Research Institute under the Ministry of Environment and Forests, have sought following main reliefs:

(i) Declare that the order of the Second respondent ^{letter no.} no.2 contained in No. 16-28/91-ICFRE, dated 13th March, 1992 in so far as it provides that any employee who does not exercise his option he/she shall be deemed to have opted for permanent absorption in the service of the Council as unconstitutional and null and void.

(ii) Restraining the respondents from obtaining options from the applicants and others like them before furnishing them notified service conditions and rules and regulations of the council.

2- The brief facts of the application are that in the year 1988 the Government of India decided to reorganise the Forestry Research set-up in the Country. Pursuant to the said decision, Six Research Institutes were set-up in the Indian Council of Forestry Research & Education. Indian Council of Forestry Research & Education Society was constituted

and registered under the Societies Registration Act on 12-3-91 and the order to this effect was published in the Gazette of India dated 30th May, 1991. Further, Government of India transferred with effect from June 1st, 1991, the office of Indian Council of Forestry Research and Education, together with its six institutions including Forest Research Institute Dehradun to the Society, vide order dated 30th May, 1991 (Annexure A-2) of the D.G. (Director General). It was stated in this order/that Director General and every employee ~~xxxxxxxxxx~~ holding any office under him immediately before handing over of the council to the Society shall be treated as on deputation with the but Society/ shall hold his office in the Society by the same terms and conditions of the service etc, as he would have held such office, if the society had not been constituted and shall continue to do so until the society duly absorbs such employees in its regular service. It was also stated that any such employee who has in respect of the proposal of the society to absorb him in its regular service intimated within such time as may be specified in this behalf by the society his intention of not becoming a regular employee shall not be absorbed by the society. Pursuant to this order Indian Council of Forestry Research and Education on 13th March, 1992 (Annexure A-1) issued a letter addressed to all Directors under ICFRE and others on the subject of exercise of option by ICFRE employees for absorption in ICFRE Society, interalia stipulating that in case any employee does not exercise his option by 31st March, 1992, he/she will be deemed to have opted for permanent absorption in the service of the Council. Aggrieved by this letter, the applicants have approached this Tribunal and prayed for the reliefs as mentioned earlier.

3- The applicants have given various grounds for challenging the impugned order. They contend that it

is obligatory on the part of the respondents to make applicants aware of the terms of absorption before requiring them to give their option. They also assert that the service conditions of the applicants can not be altered to their disadvantage.

4- The Vice Chairman/General Secretary, Van Anusandhan Sansthan Karamchari Sangh, New Forest, preferred Misc. impleadment application No.587 praying for impleadment as plaintiff in the O.A. The applicants further filed Misc. Application No. 1004/93 seeking direction of this Hon'ble Tribunal to the respondents to supply copy of notified service rules and regulations and condition of the service relating ICFRE.

These Misc. Applications were heard along with the O.A.

5- As regards the Misc. Application No.1004/93 for supply of the copy of notified service rules etc., learned counsel for the applicants prays for a copy of such rules notified in the official Gazette of the Govt. of India. In reply, it was pointed out by the learned counsel for the respondents that as the Society is registered under Societies Registration Act and was not a part of the Union Government Rules etc., framed by it could not be published in the official Gazette. He however supplied authenticated copy of the Compendium of Rules and Regulations of Indian Council of Forestry Research and Education

as brought out by the Society to the learned counsel for the applicants and also stated that the same was readily available to the applicants for reference. This Misc. Application is, therefore, treated as disposed ~~affxxx~~

of accordingly.

6- As regards the Misc. Application No. 987/93 by Vice Chairman/General Secretary, Van Anusandhan Sansthan Karamchari Sangh for impleading Karamchari Sangh as plaintiff, respondents objected to the same on various grounds inter alia contending that the same was not maintainable in law and that only an application for making as respondents is maintainable and further, that there was no registered Union like Van Anusandhan Sansthan Karamchari Sangh. It was further asserted that as per direction of the Govt. of India vide their D.O. dated 6th December, 1977 no Union can be formed in Scientific and Research Organisations. It was also stated that all the 37-petitioners are already members of one of the associations and hence can not be members of Karamchari Sangh. Nevertheless a copy of these service rules had been provided to the Un-Recognised Van Anusandhan Sansthan Karamchari Sangh. During the course of the hearing, learned counsel was unable to produce or cite any statute or case law to support the prayer of the Karamchari Sangh and accordingly this Misc. petitioner is dismissed.

7- In their counter affidavit, respondents have inter alia made the following points:

(1) That the petition is not maintainable as ICFRE is a registered society and there is no notification to give power to the Central Administrative Tribunal to deal the service matter against the Society.

In this connection they have also mentioned that a case, Writ Petition No. 36158 of 1991 is pending in the Hon'ble High Court Allahabad, which relates to the service

conditions of the ICFRE employees.

(2) Recruitment Rules for Administrative and Technical staff have been given to the Executive Bodies of various Staff Associations.

In this connection, they have annexed letter dated 13th April, 1991 (CA-I) addressed to the Associations. They also assert that all government rules will be applicable to the Council as amended from time to time and in support of this contention they have annexed letter dated 13th April, 1992 addressed to F.R.I. Employees Union Dehradun (CA-III).

8- In their rejoinder affidavit, the applicants claimed that the applicants are Central Government Employees and therefore, Hon'ble Central Administrative Tribunal has jurisdiction to adjudicate the matter in terms of the provision of the Administrative Tribunals Act. They further assert that the respondents have not given full information to the applicants regarding their service condition etc. in ICFRE but rather are putting pressure on the applicants to exercise their options. It is, further, mentioned that the time given to the applicants and ~~xxxxx~~ others like them to exercise options was inadequate and unless all their doubts with regard to the terms and conditions in the service in FRI Society are clear, they could not exercise options.

9- In the supplementary reply, respondents have stated that those who will give option will become employees of the Society and those who will not give option, will continue to remain with the Government of India. With regard to the preliminary objections of the respondents regarding the lack

of jurisdiction on the part of this Hon'ble Tribunal to deal with the service matter relating to the Societies, we are of the view that the same is misconceived. The applicants in the present case are employees of the Central Government. In this respect, it would be relevant to note that as per sub-clause-II of Clause-b of section-14 of the Administrative Tribunals Act 1985, Central Administrative Tribunal is empowered to exercise all the jurisdiction.... in relations to service matter concerning a person appointed to any Civil Service of the Union or any Civil Post under the Union. The applicants are obviously such persons and therefore, this tribunal has full jurisdiction to decide the case.

10- Coming now to the reliefs sought by the applicants in the D.A., it was stated by the learned counsel for the respondents at the bar that the circular issued by the Director General on March 13, 1991 may be treated as modified to the extent that instead of treating the employees whose options are not received by the stipulated date as having exercised their options in favour of their absorption in ICFRE, they will now be treated as continuing in Government service. This statement is supported by deposition, the ~~statement~~ made by the respondents in para-5 of their supplementary counter affidavit wherein it has inter alia been stated, " it is stated that those who will give options will become employees of the Societies and those who will not give options, will continue to remain with the Govt. of India....." A reference was also made by the learned

counsel to the letter of 10th March, 1993 addressed by the Secretary Indian Council of Forestry Research and Education addressed to the Director F.R.I. Dehradun. The last sentence of which reads as under:

"They may further be requested to exercise their option in favour of ICFRE or otherwise by 20th March, 1993 otherwise it will be presumed that they want to continue with the Central Government."

10- We have carefully considered the records of the case and arguments of the learned counsels for the parties. It needs no emphasis that administrative orders and decisions save in very exceptional cases must follow the principles of natural justice i.e. equity, justice and good-conscience. These principles clearly require that the employees of the ICFRE should have been given reasonable time and opportunity to examine pros and cons of their option for permanent absorption in the service of the council, after perusal of the rules and regulations as compared to their terms and conditions of the service applicable to them in Govt. service. The Compendium of Rules and Regulations of the ICFRE brought out by the council is a comprehensive document inter alia giving its bye-laws rules and regulations for deputation of ISFS/ SF's Officers to the council, recruitment and promotion rules in respect of administrative and technical staff, TA/DA rules etc., and requirement to study.

11- Keeping the facts and circumstances of the case in view, we are convinced that the ends of justice will be met

by the following orders:

- (1) We direct that the Compendium of Rules and Regulations be circulated among the applicants and through the offices in which they are presently working and they be given at least a period of 1 month again to exercise their options for absorption in the service of the Council.
- (2) We, further direct that only an employee who opts during above said period for absorption in the service of the Council be treated as such ~~only~~ employee and those who do not exercise any option during this period shall be deemed to continue in the Government Service.
- (3) As regards the second prayer for restraining the respondents from obtaining options from the applicants we do not find any merit in view of the foregoing discussion and therefore, the same is rejected.

11- The application is disposed of with the above observations.

In the circumstances of the case, there will be no order as to the costs.

MEMBER - A

Yours
27.7.93
MEMBER - 3

MEMBER - A

DATED: 27.7.93

(IS PS)