

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 05th Day of May, 2000.

Coram: Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. Rafiq Uddin, J.M.

Original Application No. 1339 of 1993.

Shri Inayat Rasool Khan
son of Late Sri Sharafat Rasool Khan,
aged about 30 years
r/o House No. 165,
Mohalla Gher Jafar Khan (Jhanda)
Old City Bareilly (U.P.)
Presently working as Technical Officer
under kind control of Head of Department
Dr. M. Natarajan, Scientist S-2 Live Stock Product
Technology Division, Indian Veterinary Research
Institute Izatnagar, Bareilly (U.P.) 243122.

. . . Applicant.

Counsel for the Applicant: Sri K.P. Singh, Adv.

Versus

1. Union of India through Secretary Agriculture,
Ministry of Agriculture, Government of India
Krishi Bhawan, New Delhi 110011.
2. The Director,
Indian Veterinary Research Institute (I.V.R.I)
Izatnagar Bareilly (U.P.)
3. The Head of Deptt. Dr. M. Natrajan,
Scientist S.G. (Fisheries) Livestock
Product Technology Division,
Indian Veterinary Research Institute
(I.V.R.I.) Izatnagar, Bareilly (U.P.)

- • • Respondents.

Counsel for the Respondents: Sri Rakesh Tiwari, Adv. and
Sri J.N. Tiwari, Adv.

O R D E R

(By Hon'ble Mr. S. Dayal, Member (A))

This application has been filed for setting aside verbal termination order of the respondents dated 27.03.1992 on the post of Technical Officer and direction to the respondents to regularise the service of the applicant on the post of Technical Officer with pay and allowances including arrears at par with regularly employed employees of the establishment. By ~~appointing~~ ^{an amendment} the applicant has sought appointment as Laboratory Technician on the basis of selected panel dated 15.06.1988 as he had obtained the highest marks among the candidates.

2. The case of the applicant is that he was given appointment vide order dated 31.05.1986 on the post of Research Associate on ad-hoc/temporary/casual basis on a fixed amount of Rs. 500 per month for a period of 3 months. The appointment order contained the conditions that if his services were found unsatisfactory his associateship will be terminated without assigning any reason there for. The respondents modified the order by officer order dated 28.06.1986 stating that they were pleased to engage appointment of the applicant a research associate on a fixed amount of Rs. 500 per month for a period of three months w.e.f. 01.05.1986. This period was extended by three months by officer order dated 07.08.1986 and again by three months w.e.f. 01.11.1986 by order dated 20.11.1986. By order dated 24.03.1987, this appointment was further extended for a period of three months w.e.f. 01.02.1987 and again for a period of three months from 01.05.1987 by order dated 24.06.1987 yet by another order dated 31.07.1987.

The applicant was given a tenure of 6 months as Technical Officer on consolidated wages of Rs. 1100/- per month w.e.f. 01.08.1987. The applicant claims that he continued to work till 08.10.1989 for 905 days ~~and~~ ⁱⁿ all by virtue of new appointment and periodical extensions as Technical Officer. The applicant draws attention to the office memorandum of Ministry of Personnel Public Grievances and Pension providing for regularisation of casual workers who were worked continuously for 240 days or 206 days in office observing five days a week on each of the two immediate preceding calendar year. The applicant claims that he applied for the post of Lab Assistant T 1 against advertisement newspaper by IVRI Izzat Nagar but he was not adjusted on this post. The applicant again applied for post of T 2, T 4 and T 6 in the year 1987 and he was given a call letter and his merit was placed at number 1 but he was placed at number 2 in the waiting list. He has prayed that the relevant papers of selection may be called and the manipulation done by respondents no. 2 to 9 be considered for relief to the applicant.

3. The applicants again claim to have applied in the year 1989 for T-4 and T-6 but his application was not entertained. Fresh and junior departmental candidates were appointed and the applicant seeks quashing and setting aside of the appointments against this advertisement. The applicant prayed for his adjustment on regular post of T-2 but the respondents did not adjust him on the above post. The applicant applied in 1992 for advertised post of Junior Research fellow in Nutrition Division but he was not given a

chance for appointment. The applicant applied for the post of Research Associate in March 1993 but he was not allowed age relaxation. The applicant has said that termination order dated 27.05.1993 is illegal, unlawful and unconstitutional and therefore, it should be quashed and the applicant regularise on the post of Research Associate.

4. We have heard the arguments of Shri K.P. Singh for the applicant and Shri Rakesh Tiwari for the respondents. The record of the case has been considered.

5. The respondents have mentioned that the applicant was engaged from time to time for fixed and specified period to meet the exigency of work in different departments. His engagement was a tenure engagement on temporary post as Research Associate/Technical Officer at fixed remuneration. The respondents have denied the applicability of memorandum of Ministry of Personnel and Public Grievances regarding regularisation of casual labour. Such regularisation is ^{said} ~~not~~ to be for group D post and not for post in group C category. The respondents have also mentioned that the applicant has not worked after October 1989 and he has filed his application beyond the period of limitation for relief in this O.A. The respondents have also mentioned that the applicant has not impleaded the persons selected after advertisement/selection in the year 1987, 1988, 1989, 1990 and 1992 and cannot be granted relief without their impleadment in the O.A. The respondents have also stated that although the applicant had applied for direct recruitment 1987 but he was not selected in 1989. The post were to be

filled up by SC/ST candidates only ^{under 2} ~~on~~ the special ^{drive} ~~drive~~ programme. Thereafter, the candidate was not eligible for being considered on account of ² bar of maximum age.

6. We have seen the various orders by which the applicant was being engaged from time to time as a Technical Officer and we find that the last order is dated 18.10.1989/19.10.1989 by which the applicant was re-engaged on consolidated amount of Rs. 1500/- from 09.07.1989 to 08.10.1989 for a period of three months of work in the laboratory. The respondents have mentioned in their counter reply that the applicant had been appointed only till 08.10.1989 and his period of engagement came to an end on 09.10.1990. It is the contention of the respondents that the applicant surreptitiously signed attendance register from 09.10.1989 to 25.10.1989 and that he was not entitled for any wages for a period after 08.10.1989. Since all orders produced by the applicant in support of his engagement are orders for a fixed term the contention of the respondents is borne out by the record in this case. The applicant has not filed any annexure after Annexure-A 10 which is for his engagement upto 08.10.1989. His certificates as Annexures A 1 and A 1 A are also upto the period 08.10.1989. Hence the contention of the applicant that he continued to working till 27.03.1992 or 27.03.1993 when he was terminated by verbal termination order is not credible. We therefore, find that his prayer for relief of regularisation made in the O.A. to be beyond the period of limitation.

7. The second issue regarding the applicant's

selection on the post of Laboratory Assistant T-2 against advertisement in Amar Ujala dated 01.08.1987. The applicant vide amendment in his O.A. has alleged that a committee erroneously did not properly compute marks obtained by the applicant in the test and interview which were 27.05 and 11 out of 50 and did not take any action in spite of this protest in 1988. The learned counsel for the applicant to day mentioned that the respondents in O.A. no. 110/91 between Shalendra Shah Vs. Union of India have in their supplementary counter reply dated 29.07.1991 annexed as Annexure 1 B in which the marks given to various candidates are shown and the marks of the applicant should have been 38 instead of 28 as can be seen from this annexure. The learned counsel for the respondents have shown to us the original file containing the proceedings of the selection committee dated 15.06.1988 along with a list of candidates in which marks obtained by each candidates in written and viva voce were shown. A perusal of the list shows that the applicant had received 27.05 marks in written and 11 in interview but the total is shown as 28. The applicant in his rejoinder has stated that the applicant was not aware of the marks obtained by him till he came to know about the supplementary counter filed by the respondents in O.A. no. 110/91. The respondents in their Supplementary Counter Reply of Shri A.K. Mukhopadhyay Project Coordinator (FMD) and Chairman of the selection Committee for the post of T-2 has averred that a forgery appeared to have been committed in the original record of the institute particularly in the result sheet. The applicant was not given 11 marks out of 15 in the interview. Only one marks was given to him in interview.

The respondents mentions that it appeared that just before figure 1 another figure 1 was added by some interested person after declaration of result. It is wrong to say that there was any calculation error. The calculation was checked by every member of the selection committee and it is beyond imagination that each and every member of selection committee will commit such mistakes. The case was also ~~processed~~ ^{processed &} by the office which did not detect any mistake of addition. The applicant secured only 1 mark in the interview which has been correctly added in his total mark and is not entitled to any advantage due to forgery. The applicant in his rejoinder has stated that he could not have committed any forgery because he was not aware of the marks obtained by him till the supplementary C.A. has been filed in the other case.

8. We have evaluated the evidence in this case. We would have placed reliance on the record of selection committee if we had not come accross the counter reply filed on behalf of the respondent No. 10. Copy of record of selection dated 15.06.1988 shows that the selection committee was chaired by Dr. A.K. Mukhopadhyay and counter reply on behalf of respondent No. 10 has been filed by Dr. A.K. Mukhopadhyay who has been impleaded in person by the applicant. We find that there were only four candidates out of 34 who obtained 10 or more marks in the interview . Others had obtained ~~zero~~ ¹, one or two marks in the interview barring a couple of candidates who had obtained 5 and 6 marks respectively. The ~~applicant~~ ^{avermant &} made by respondent No. 10 in counter reply therefore, has to be given credence

to as respondent No. 10 chaired the selection and had knowledge of the facts. We, therefore, do not find that the applicant had been selected and was unjustly left out from his proper decision in the selected list because of any error of computation.

9: Therefore, the O.A. is dismissed as lacking in merits.

There shall be no order as to costs.

Raf. V. V. V.
Member (J)

[Signature]
Member (A)

/S.P./