

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH: CALCUTTA

Original Application No. 1237/96

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Date of decision: 23-12-04

Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member.

Hon'ble Mr. M.K. Misra, Administrative Member.

Sejal Dutta, S/o Late Kanai Lal Dutta, 33/1 B Mahesh Dutta Lane
Calcutta 700 027

: Applicant.

rep. by Mr. C.R. Bag : Counsel for the applicant.

VERSUS

1. The Union of India service through the Secretary, Ministry of Health & Family Welfare, Government of India Nirman Bhawan, New Delhi 110 011
2. Director General, Ministry of Health & Family Welfare Government of India, Nirman Bhavan, New Delhi 110 011
3. Director, All India Institute of Hygiene & Public Health, 110, Chittaranjan Avenue, Calcutta 700 073

: Respondents.

rep. by Ms. K. Banerjee: Counsel for the respondents.

ORDER

Mr. M.K. Misra, Administrative Member.

The applicant, by this O.A seeks relief in the manner that the respondents should be directed to absorb as regular incumbent as a Group 'D' staff as Laboratory Assistant etc, along with consequential benefits with retrospective effect from the date he had completed 206 days in two consecutive years.

2. Briefly, the facts of the case are that in the year 1979, the applicant was sponsored by the Employment Exchange

on the basis of the requisition No. 3 of respondent No. 3 to fill up the post of Swastha Rakshak. On 05.03.79, the applicant was appointed on temporary basis and continued to work in the projects of the respondent No. 3. After completion of one project, the services of the applicant were terminated and later on he was asked to work on another project. Sometimes both the termination order and the re-employment order were issued simultaneously. Though the claim of the applicant is that he had worked under respondent No. 3 as a casual employee and for the purpose of regularisation continuous service 206 days in two consecutive years would be sufficient, but the applicant was working for more than 18 years under the 3rd respondent. In the year 1995, the 3rd respondent recommended the name of the applicant to the competent authority for absorption in the department.

3. The grievance of the applicant is that he has not been absorbed by the respondent No. 3 despite the fact that he had put in more than 18 years of service as a casual labour and the necessary conditions for absorption had already been fulfilled by the applicant.

4. In reply, the respondents submitted that it is a fact that the applicant was sponsored through employment exchange on a temporary basis with a condition of termination at any time without notice, as the said project was a time bound one for a specific period. The termination order was also served on the applicant after the expiry of the tenure of the project and as per the requirement of staff for the new project the applicant was again re-employed in the other project. Thus the applicant never continued as a casual employee although he was engaged in one project to another project as and when

services were required. Thus there is no scope for creation of a permanent post in any project/scheme. Absorption of project employees against regular posts is not permissible under any rules of the Government of India.

5. In the rejoinder, the applicant submitted that since he had been working from March 1979 to till date he was given the pay scale of Rs.825-1200/- with annual increments, therefore he continued in service not as casual in nature but more than that. There was ^a post of Laboratory Attendant lying vacant under the 3rd respondent and he was not called for any test for filling up that post.

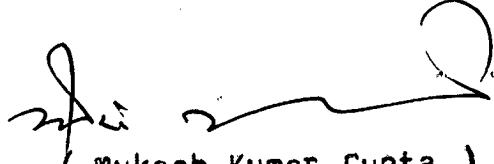
6. We heard the learned counsel for both the parties and perused the records. We may note here a Full Bench decision of the Allahabad High Court in the case of Lal Mohammad and others and Indian Railway Construction Co. Ltd and another (2004 (20) AIC 415 (Alld. HC FB). The petitioners therein had been employed in project on short term appointment and the Full Bench of the Hon'ble Allahabad High Court has held that the petitioners were not entitled to be absorbed in any other project of the company, since such persons are not holding the duly sanctioned permanent posts. The applicant in the instant case is also similarly placed and hence he has no vested right for absorption in the respondents department. No department can give assurance to the persons employed in projects for future employment or for regularisation or absorption in the department. Therefore, the claim of the applicant falls to the ground.

7. However, it is observed from the above facts that the applicant had served under the 3rd respondent in various projects for more than 18 years and his name was recommended by the 3rd respondent in the year 1995 for absorption in the department, the applicant having served

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for 18 years satisfactorily, his candidature may be considered sympathetically, if he is found eligible for any group 'D' post, against any existing vacancy or any future vacancy, he ~~may~~ be appointed. Ordered accordingly.) No costs.


(M.K. Misra)
Administrative Member


(Mukesh Kumar Gupta)
Judicial Member.

jsv.