

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATE: 31.5.1990

PRESENT

HON'BLE SHRI S. P. MUKERJI, VICE CHAIRMAN

&

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

O.A. No. 25/89, 26/89, 27/89

T. A. Muraleedharan Applicant in OA No.25/89
V. M. Johny -do- OA No.26/89
P. J. Sunny -do- OA No.27/89

vs.

1. The Secretary to the Ministry of Health and Family Welfare, Government of India, Nirman Bhavan, New Delhi
2. Director General of Health Services
-do-
3. The Director, National Institute of Communicable Diseases, 22 Sham Nath Marg, New Delhi-110 054
4. The Deputy Director and Officer in charge of WHO/TDR Project, National Institute of Communicable Diseases,
-do-
5. The Officer in charge, Regional Filaria Training and Research Centre, Karaparamba P.O. Calicut-673 010

Respondents

M/s. K. Ramakumar,
V. R. Ramachandran Nair and
Roy Abraham

Mr. S. V. Balakrishna Iyer, ACGSC

Counsel for the
applicants

Counsel for the
respondents

JUDGMENT

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

Identical order produced in all the three cases is challenged. The question of law, facts and reliefs in all these cases are also the same. Hence on

agreement of parties these cases are heard together and disposed of by this common judgment.

2. For convenience the facts in O.A. 25/89 are stated and they are as follows. The applicant was appointed as Driver as per Annexure-A order dated 14.8.85 in the World Health Organisation/TDR Project established for strengthening of Regional Filaria Training and Research Centre, Calicut. According to the applicant this Institution and the projects are entirely controlled by the Ministry of Health, Government of India. The primary object of the project is to strengthen the facilities for research and training by improving the quality of work at the centre. The institute headed by the third respondent, Director, National Institute of Communicable Diseases (NICD), New Delhi, has given a firm commitment to W.H.O. to progressively take all the activities of the project and absorb the staff on a permanent basis in the Institute. In implementation of this commitment the absorption of their staff has been made in the past.

3. According to the applicant the services of the staff of the Indian Council for Medical Research for short ICMR, were regularised in terms of an assurance given by the ICMR before the Supreme Court in W.P. No. 5856-57/85 as evidenced by Annexure-B dated 14.8.87. But the applicant's services were terminated as per Annexure-E w.e.f. 31.12.1988 on the ground that the Project has been wound up without adverting to the above assurance and absorption of members of the staff in the ICMR. Hence there is discrimination and violation of Articles 14 and 16 of the Constitution of India.

4. Under these circumstances the limited prayer of the applicant in this case is that since the services of the staff of ICMR were regularised in similar circumstances in terms of the undertaking given by the authorities before the Supreme Court the applicant is also entitled to similar treatment. As indicated above its refusal is violative of Articles 14 & 16 of the Constitution. The applicant submitted that the project undertaken by the NICD Calicut Centre is yet to be completed. The funds allotted for the purpose with the liberal aid of the W.H.O. have also not been exhausted. This will be clear from the various communications between the Calicut Centre and the NICD.

5. The learned counsel for the applicant relied on Annexure-D minutes of the meeting held under the Chairmanship of Shri J. Vasudevan, Joint Secretary, Ministry of Health and Family Welfare on the 6th July, 1987 to discuss the stand of the Government on the Writ Petition filed by the Association (ICMR Malaria Research Workers Association V. Union of India and others in the Supreme Court). The relevant portions are extracted below:

"In future no research scheme/project will be undertaken by NICD/NMEP without the concurrence of the DGHS/Min. of Health and F.W. If any scheme/project is sanctioned, staff there under will be appointed on deputation basis only."

X

X

X

The Director, NICD shall forward the details of the employees of the schemes/projects to the Director General, ICMR, who will take early steps to absorb these employees in their various projects functioning in the country.

The Director, NICD will also forward the particulars of all employees of the ICMR schemes/projects at NICD, Delhi to the Director, NMEP for absorption of these persons in the projects/schemes functioning under the Dte N.M.E.P.

X

X

X

The existing projects/schemes at the NICD shall be continued till the existing staff of these schemes/projects are absorbed against suitable posts. The Director, NICD should take timely action for the extension/continuation of these projects, upto the end of current financial year in the first instant.

The Recruitment Rules of Group 'C' and 'D' posts in the NICD may suitably be modified by including provision for giving preference to the employees of the various ICMR projects at NICD for employment against posts which attract direct recruitment."

6. The respondents have opposed the claim of the applicant by filing a detailed counter affidavit. They have submitted that the services of the applicant were ^{with} co-terminus ~~to~~ the termination of the project under which they were employed and tenure of the project was completed by 31.12.88. It was submitted that if there is work available in the project or any connected matters, the applicant's claim for absorption will be considered taking into consideration his previous experience and continued service in the project.

9. In the light of this submission we think it is not necessary for us to go into the various details and go through the records produced before us and decide the issues arising for consideration. It is ^{an} admitted fact that the applicant was taken in service at the very inception of the project and he was allowed to continue till the impugned order Annexure-E. His competence and qualification for absorption of the work of the project is continued is not in dispute. The case of the applicant is that the project is being ^{and} extended from year to year ~~or~~ even other similar projects with the aid and assistance of WHO would be commenced immediately after the present project is wound up as

stated by the respondents. However if work is available the applicant's claim for absorption deserves consideration by the respondents.

8. Having regard to the facts and circumstances of this case it is just and proper that the applicant's claim for continued employment should be sympathetically considered by the respondents at the appropriate stage in case work in the project is being continued or other similar projects are started by the respondents especially because the applicant is an experienced person in the work.

9. Accordingly, in the interest of justice, we feel that these three cases can be disposed of with the direction that the respondents shall consider sympathetically the claim of the applicants for absorption in the aforesaid cases in the available vacancies in the existing or future similar projects taking into consideration their past service and experience in the project.

10. In the result we dispose of the applications with the above observations and directions but without any order as to costs.

N. Dharmadan 31.5.90.
(N. Dharmadan)
Judicial Member

S. P. Mukerji 31.5.90.
(S. P. Mukerji)
Vice Chairman

kmn