

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O.A. No. 277/90
XXX

199-

DATE OF DECISION 12.12.1990

K Lathika Devi & another _____ Applicant (s)

Mr GP Mohanachandran _____ Advocate for the Applicant (s)

Versus

Senior Administrative Officer Respondent (s)
Recruitment Section, V.S.S.C.
Trivandrum-22 & 3 others

Mr NN Sugunapalan, SCGSC _____ Advocate for the Respondent (s) 1-3

CORAM:

The Hon'ble Mr. NV Krishnan, Administrative Member

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

Mr NV Krishnan, A.M

The first applicant was appointed as a Laboratory Assistant on contract basis under Respondent-1 namely, the Senior Administrative Officer, Vikram Sarabhai Space Centre, Trivandrum (VSSC, for short) by the order dated 6.6.88 (Annexure A1). Similarly, the second applicant was appointed by Respondent-1 as Laboratory Assistant on contract basis by the Annexure A3 order dated 7.6.88. The grievance of both the applicants is that their services have since been terminated on 27th July, 1990 on the ground that the Respondent-1 does not require their services in the Nitramine Propellant Project (Project, for short) in which they were first employed. The applicants contended that the Project was to continue till the end of November, 1990 and that further, the VSSC

has the capacity to absorb the applicants as Laboratory Assistants. It is also alleged that the 4th respondent, who is junior to the applicants, is still continuing on contract basis as Laboratory Assistant under the 1st respondent.

2 In the circumstances, the applicants have ^{u/s} prayed the following material reliefs.

A) Declare that the applicants are entitled to continue in service of the VSSC as Laboratory Assistant "A" in the scale of pay Rs 1150-25-1500, so long as their Juniors including the 4th respondent continue in service in the said post and the project Nitramine Propellant Project, DRDL or similar Projects are maintained by the Respondents 1 to 3.

B) Direct the Respondents 1 to 3 to appoint the applicants on a regular basis as Laboratory Assistants "A" in the VSSC, Trivandrum in the existing vacancies of the said post that are available in the VSSC, Trivandrum.

3 The respondents 1 to 3 (Department, for short) have denied the allegations made in the application and contend that the applicants are not entitled to any relief. The 4th respondent has also filed a reply to the same effect.

4 The Department has contended that in view of the expertise it has gained in the field of space technology, it is given contracts for execution by the Defence Research and Development Laboratory (DRDL, for short) under the Ministry of Defence. The Project

mentioned above is one such contract. The payments to the Department by the DRDL is dependent on the amount of work to be done, for which detailed estimates are prepared of the manpower required. It is on that basis that the two applicants were engaged on a contract basis as Laboratory Assistants.

It is contended that their services have been finally terminated from July, 1990, as they were no longer required for the purpose of the Project work.

Similarly, the services of the 4th respondent, who was also engaged as Laboratory Assistant, has been terminated from the same date.

5 It is stated that it is a practice of the Department, when accepting such contracts for execution, to engage various categories of personnel for the period for which their services are required for the successful implementation of the contract. The applicants have, therefore, no right to claim that they should be engaged on the regular establishment of VSSC. It is also submitted that the VSSC does not have any vacancy at present of Laboratory Assistant on a regular basis.

6 The Indian Space Research Organisation of which the VSSC is a part, does consider the cases of former contract employees of the VSSC as and when regular vacancies arise, subject to their fulfilling the

eligibility conditions of recruitment and a selection by a duly constituted Selection Committee. It is further contended that the applicants are already over aged and cannot be considered, even if such vacancies arise in future.

7 We have perused the records of the case and heard the learned counsel of the parties, other than Respondent-4, who was not represented on the final day of hearing.

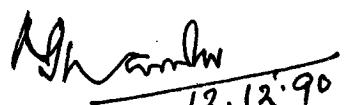
8 We are of the view that the applicants cannot have any grievance against the termination of their services in July, 1990 because, the Department contends that in the contract taken up by them for execution of the Project, there is no scope for continuing their services thereafter. Nor can they have any grievance on the alleged ground that the Respondent-4, who is junior to them, is still an employee of VSSC on contract basis as Laboratory Assistant because, her services have also been terminated. The question is whether in the circumstances of the case, the applicants have a right to be considered against regular vacancies which may arise in the Department itself. The respondents have already admitted that they have a policy of rehabilitating personnel who had earlier rendered services on a contract basis. The only difficulty alleged in the case of the applicants is that they are over aged. It is, therefore,

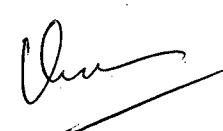
contended that the Department should not be compelled to consider their case, even if vacancies arise in future.

9 We are not satisfied with this submission. It is true that the applicants were entertained only on a contract basis in the post of Laboratory Assistant. That does not mean that persons not satisfying the normal eligibility conditions required for regular appointment as a Laboratory Assistant in the Department's permanent establishment/on short-term contract. Unless there is something to the contrary, there will be a presumption that even for the post of Laboratory Assistant required on a contract basis for the execution of time bound contracts taken up by the Department, the qualifications and eligibility conditions will be the same as for regular appointment. If the applicants were engaged on a contract basis, the Department cannot turn round later, when the question of considering them against future regular vacancies in the Department arises, that they are over aged and therefore, not eligible for appointment. We are of the view that if an appointment was given have been it should be because the appointee satisfied all the conditions of recruitment or alternately, there will be a presumption that, if he did not satisfy one was on the basis of or more such condition, the selection/a relaxation of the rules in his favour.

10. In this view of the matter we cannot agree with the Department that the case of the applicants cannot be considered as they are over aged. In the circumstances, we direct that the case of the applicants for appointment to the post of Laboratory Assistant be considered by Respondent 1 to 3 against regular vacancies of such posts that may arise in future or against vacancies that may arise in similar contracts like the present Project without treating them as being over aged. For this purpose, the Department may, if necessary, consider maintaining a list of such former employees engaged on contract basis stipulating suitable conditions.

11. With these directions and observations this application is disposed of. There will be no order as to costs.


12.12.90.
(N.Dharmadan)
Judicial Member


(N.V.Krishnan)
Admve. Member