

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.345/2000

Thursday this the 22nd day of November, 2001

CORAM:

HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE SHRI T.N.T.NAYAR, ADMINISTRATIVE MEMBER

Beena A.G., W/o Baji,
Processing Assistant,
Integrated Fisheries Project,
Cochin-16.

Applicant

(By Advocate Sri M.R.Rajendran Nair)

vs.

1. The Director,
Integrated Fisheries Project, Cochin.

2. Union of India represented by the Secretary
to the Government of India,
Ministry of Agriculture,
New Delhi.

Respondents


(By Advocate Mr.K.R.Rajkumar, ACGSC)

The Application having been heard on 22.11.2001, the Tribunal
on the same day delivered the following:-

ORDER

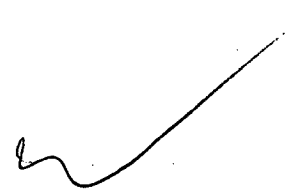
HON'BLE SHRI A.V.HARIDASAN, VICE CHAIRMAN:

The applicant was initially appointed as Processing Assistant in the Integrated Fisheries Project purely on adhoc basis for 89 days w.e.f.5.11.92 by order dated 9.11.92 (A3) being sponsored by the employment exchange. She was thereafter appointed for similar periods with breaks intermittently. The applicant was thereafter appointed by order dated 3.12.94 on a temporary capacity against the deputation vacancy of a regular incumbent. While continuing so, the applicant having been selected for appointment as Aquaculture Expert on temporary contract basis in the Department of Fisheries, Government of Kerala, was relieved by the 2nd respondent by order dated 21.3.97 (A12) in terms of the conditions mentioned in A-11



dated 21.3.97. The deputation of the applicant was twice extended and ultimately, on her request she was repatriated and was allowed to join back IFP as Processing Assistant on 13.12.99, by order dated 18.12.99 (A-15). The present grievance of the applicant is that on 1.3.2000 the 2nd respondent issued A-1 order proposing to terminate the services of the applicant purportedly in accordance with the sub-rule(1) of Rule 5 of the Central Civil Services (Temporary Service) Rules and that by A-2 order dated 16.3.2000, her representation against the proposed termination was rejected on the ground that the competent authority has not agreed to the retention of her lien in IFP. The applicant has alleged that since the competent authority had vide order dated 16.11.98 declared satisfactory completion of her probation w.e.f. 3.12.96 as per order A-14(a), the action taken by the respondents under the provisions of sub-rule (1) of Rule 5 of the Central Civil Services (Temporary Service) Rules, 1965 is wholly unjustified. It has been alleged that, as the applicant was sent on deputation by the competent authority, action of the 2nd respondent in now saying that the retention of the applicant's lien was not in order, is untenable. The applicant has, therefore, sought to set aside the impugned orders A-1 and A-2.

2. The respondents in their reply statement seek to justify the impugned orders on the ground that the Pay and Accounts Officer had objected to the retention of the lien of the applicant, as she could not have been sent on deputation retaining a lien for the reason that, she was only a temporary Government servant at the time when she was sent on contract basis. However, the respondents have in paragraph 8 of the reply statement stated as follows:



"The perusal of the O.A.No.345 of 2000 submitted by the applicant (Ms.A.G.Beena) has now revealed that she had joined the State Government of Kerala as an Acquaculture Expert on contract basis and not on transfer on deputation. As she had joined the State Government on contract basis and was also relieved by Appointing Authority i.e., Director, Integrated Fisheries Project, Cochin, she could have applied and availed the leave for the period of contract and reverted back to the Project to join her duty after completion of the contract. It is now considered that she should apply for leave of the kind due and admissible to her for the period of contract she had remained with the Government of Kerala and the Appointing Authority i.e., Director, Integrated Fisheries project, Cochin will sanction leave to her for the period of her contract with State Government. She will be allowed to join her duty with the Project after expiry of the leave sanctioned to her for the contract work she had taken up with the State Government."

3. Respondents in paragraph 9 of the reply statement have stated that the application may be considered on merits and appropriate orders be passed.

4. On a careful scrutiny of the entire materials placed on record, we find little justification for the respondents to issue impugned orders terminating the services of the applicant taking recourse to sub-rule (1) of Rule 5 of the Central Civil Services(Temporary Service) Rules, 1965. The applicant having been sent on deputation and the 2nd respondent itself having agreed to the extension of deputation of the applicant more than once, and having issued A-14 (a) order declaring satisfactory completion of the probation also w.e.f. 3.12.1996 merely because of the Pay & Accounts Officer raised some objections, the first respondent could not have issued an order terminating the services of the applicant under the provisions of Temporary Service Rules as the applicant had already been confirmed on satisfactory completion of probation.

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5. In the light of what is stated above, the impugned orders are set aside with consequential benefits. *to the applicant*
6. O.A. is allowed accordingly. No costs.

Dated the 22nd November 2001.


T.N.T.NAYAR
ADMINISTRATIVE MEMBER


A.Y.HARIDASAN
VICE CHAIRMAN

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APPENDIX

APPLICANT'S ANNEXURE

1. Annexure A1: True copy of the Memo No.IFP/Admn/11/7-11/92 Vol.II dated 1.3.2000 issued by the 1st respondent.
2. Annexure A2: True copy of the Memo No.IFP/Admn/11-7-11/92/ Vol-II dated 16.3.2000 issued by the 1st respondent.
3. Annexure A3: True copy of the Memo No.A1/2-9/89 dated 9.11.1992 issued by the 1st respondent.
4. Annexure A4: True copy of the order No.A1/2-9/87/462 dated 5.3.1993 issued by the 1st respondent.
5. Annexure A5: True copy of the order No.A1/2-9/89/1217 dated 11.6.93 issued by the 1st respondent.
6. Annexure A6: True copy of the order No.A1/2-11/93 dated 22.12.1993 issued by the 1st respondent.
7. Annexure A7: True copy of the order No.A1/2-11/93/1199 dated 3.6.1994 issued by the 1st respondent.
8. Annexure A8: True copy of the order No.A1/2-11/93/2533 dated 3.12.1994 issued by the 1st respondent.
9. Annexure A9: True copy of the order No.A2/58/96 dated 4.3.1997 issued by the Director of Fisheries, Kerala.
10. Annexure A10: True copy of the representation dated 13.3.1997 submitted by the applicant to the 1st respondent.
11. Annexure A11: True copy of the office Memo No.IFP/Admn./ II-7-11/92 dated 21.3.1997 issued by the 1st respondent.
12. Annexure A12: True copy of the Office order No.IFP/Admn/ II-7/11/92 dated 21.3.1997 issued by the 1st respondent.

13. Annexure A13(a): True copy of the letter No.A2/58/96 dated 2.6.98 issued by the Director of Fisheries.
14. Annexure A13(b): True copy of the letter No.A2/58/96 dated 22.4.1999 issued by the Director of Fisheries.
15. Annexure A14(a): True copy of the order No.A-5/4-I/98 dated 16.11.1998 issued by the 1st respondent.
16. Annexure A14(b): True copy of the representation dated 7.12.1999 submitted by the applicant to the Department of Fisheries.
17. Annexure A15: True copy of the office order No.IFP/Admn./11/7-11/92.Vol.I/P250 dated 18.12.1999 issued by the 1st respondent.
18. Annexure A16: True copy of the representation dated 14.3.2000 submitted by the applicant to the 1st respondent.

RESPONDENT'S ANNEXURE

1. Annexure R1(a): True copy of the letter No.IFP/Admn/II/ 7-11/92/1332 dated 19.3.97 issued by the Director of Fisheries Thiruvananthapuram.
2. Annexure R1(b): True copy of the letter No.A2-58/96 dated 20.3.1997 issued by the Director of Fisheries, Thiruvananthapuram to the 1st respondent.
3. Annexure R1(c): True copy of the letter No.PAO Agri/ Cochin IX-15/362 dated 28.1.2000 issued by the Pay and Accounts Officer to the 1st respondent.
4. Annexure R1(d): True copy of the bill No.(PB-1251)PAO/ Agri/Cochin/IV dated 27.1.2000 issued by the Pay and Accounts Officer.
5. Annexure R1(e): True copy of the Ministry's order No.5-63/99-Fy(Admn) dated 15.2.2000.
6. Annexure MA1: True photocopy of the letter No.5-63/99-Fy.Admn. dated 31.5.2000 of the 2nd applicant.

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