

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 364/1990

Dwijendra Upadhyay

Applicant

versus

C.S.I.R. and others

Respondents.

Shri A.R. Khan

Counsel for Applicant

Shri P.K. Srivastava

Counsel for Respondents.

Coram:

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant, after passing M.Sc.. Examination was engaged as contingent paid staff on fixed salary of Rs 450/- by the I.T.R.C. after approval was accorded for the same. The applicant worked as such in the said scheme during the period from 24.3.83 to 23.8.84. In the selection to the post of Junior Research Fellow in I.T.R.C., Lucknow in which capacity he ^{was} working upto 31.3.87 in Toxicology Data Unit (Documentation unit) of I.T.R.C. In pursuance of the advertisement issued by the I.T.R.C., Lucknow the applicants were invited for appointment /under the ENVIS project sponsored by the Department of Environment, Government of India for various posts including the post of Technical Assistant, the applicant

who fulfilled the qualification for the same, he applied for the same. After necessary test and interview he was selected for the said post and was appointed as Junior Technical Assistant in the scale of Rs 1400-2300 with effect from 1.4.87. According to the applicant the work was taken from him of the higher post, yet salary for the said scale was not given to him and the applicant claimed the same. According to him it was a deliberate act and a short break was created in his service for which there was no justification, as the work and the post on which the applicant was working, continued and that is why he was re-engaged on 14.10.88. According to the applicant the other individuals selected alongwith him were allowed to continue and were paid salary from other on going schemes in the ITRC and he was alone picked out for discriminatory treatment. The persons like Husain Nazir Naqvi, Abdul Rahman, Smt. Farzana Hafeez and Miss Bina Joshi were terminated for the same reason as that of applicant. The case of the applicant was also recommended by Sri R.M. Qidwai under whom he worked in the said scheme which is an externally financed scheme. The applicant claimed various medical bills for medical reimbursement which too were not paid and that is why he filed application in this Tribunal praying that the respondent No. 2 be directed to pay the applicant arrears of salary and allowances, bonus, LTC etc. which have not been paid and to treat the applicant as having been absorbed on the regular side

on a post of Technical Officer from the date he completed 3 years of continuous service in the ITRC. He also prayed that the applicant be held to be entitled to be treated as having been appointed on the post of Technical Officer since 1.4.1987 instead of as Junior Technical Assistant and be paid arrears of salary and allowances and the Memo dated 1.6.88 be set aside.

2. The respondents have refuted the claim of the applicant and pleaded that earlier the post was continued on yearly basis, as the programme was sponsored by the department for making arrangement of environmental information system in December, 1983 which was continued upto 30th June, 89 with gap of couple months during the year 1988 and in the said project breaks were created thereafter as per need. Since the sponsorer did not provide fund to meet the salaries and other expenses for programmes therefrom the memo dated 1.6.88 was issued.

3. It has been admitted that the applicant had worked on the said project whereafter he was relieved because of the non receipt of the fund. There appears to be no denial that the services of others were taken back while the applicant was not taken back and subsequently the applicant's services were terminated and he amended the petition praying relief against the oral termination order and according to him he continued to sign the attendance register upto 17.9.92 whereafter he was not allowed to sign the register. According to the

applicant he has been discharged in the duties. It has also been pointed out that the scheme has not come to an end as Dr. (Ms) F.N. Jaffri has been given appointment to the post of Project Officer and Shri Nikhil Garg has been appointed on the post of Computer Programmer

4. According to the respondents, it was not the duty of the applicant to mark the attendance in the register as his services had come to an end. As a matter of fact the project stopped on 31.5.89 due to non receipt of fund and as such the applicant's duty could not be treated as official duty. The applicant has been appointed on the first phase of ENVIS project which was funded by the department of Environment under Environmental Information System and when funds of this scheme were exhausted, services of the staff were terminated. According to the respondents, Dr. F.N. Jafferri and Shri Nikhil Garg were deployed against the two positions in ENVIS II and at that time the petitioner was not holding such suitable qualification to these positions.

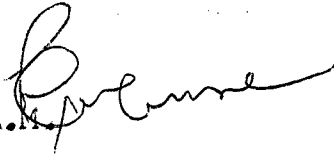
5. Under the C.S.I.R. various schemes are sponsored and scientists are appointed against these schemes and they are also allowed to continue from one to other scheme. In case one scheme is stopped by the C.S.I.R. the persons are taken to other schemes, if they are willing. In the instant case if one project has come to an end there was second project and even

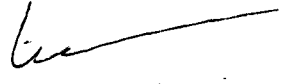
technically even if it could be said that for certain purposes it was a separate project but could not be said to be different and not in continuation of other , the working of which was stopped for the time being because of non receipt of funds. The second project or scheme that is ENVIS II apparently was ⁱⁿ continuation of earlier scheme and project and cannot be detached from the first one. Those who were working on the first were to continue or to be allowed to continue if there was no refusal on their part. The termination which took place was technical termination awaiting arrival of funds and revival of scheme or project which obviously was to be mentioned as No. II.

6. It is the second phase of the earlier scheme or project and there was no question of requisite qualification and that is why vague allegations have been made by the respondents regarding qualification which is not correct. The respondents have, in the second project taken two persons, namely Shri Jafri and Shri Nikhil. There appears to be no reason why the applicant be not appointed.

7. The respondents are directed to give appointment to the applicant expeditiously i.e. within a period of two months from the date of receipt of a copy of this said judgment by the respondents. As to what will be the result ~~on the result~~ of the appointment in case the same will be given to the applicant as to whether

it will be connected with the previous one, or not
we make no observation in this behalf. No order as to costs.

A.M. 


V.C.

Lucknow: Dated: 15.12.92.