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CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH.

O.A.No.478/92

Lucknow, this the 27th day of ^{May} ~~March~~, 2001

HON'BLE SHRI D.C. VERMA, MEMBER (J)
HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

**Sunil Kumar Bose, aged about
33 years, S/O Sh. S.K.Bose,
R/O 28, Vidhan Sabha Marg,
Lucknow.**

(By Advocate None)

Applicant.

BY Advocate Miss Poonam Sinha B.H. For Shri P.K. Khare.
Versus

1. Union of India through
the Secretary, Ministry of Science
and Technology, New Delhi.
2. The Director General,
Council of Scientific & Industrial
Research, Anusendhan Bhavan, Rafi Marg,
New Delhi.
3. The Industrial Texicology,
Research Centre, Lucknow through Director,
Industrial Texocology Research,
Centre, M.G.Marg, PB 80, Lucknow.

Respondents.

(By Advocate Sh. A.K.Chaturvedi)

O R D E R

By Hon'ble Shri S.A.T. Rizvi, Member (A):

On a project, by name "Toxicological Evaluation of
Marine-Estuarian, Environment of North-east Coast, [✓]
sponsored by the Department of Ocean Development (DOD), the
applicant was engaged by the I.T.R.C., Lucknow, respondent
No.3 herein, under the control of the Director General, CSIR,
New Delhi, respondent No.2 herein, as a Lab Attendant on
29.9.1989 (Annexure A-1). ^{✓ According to the letter of appointment, ✓} His appointment was purely
temporary and liable for termination at any time without
notice and without assigning any reason. ^{✓ further ✓} His appointment was
not to be treated as a CSIR appointment, temporary or

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otherwise, and did not entitle him to any claim on any CSIR/ITRC post. He was engaged for a period of three years on a consolidated payment of Rs.950 PM during the first year, ~~Rs.970~~ Rs.970 PM during the second year and Rs.990 during the third year. By the ITRC's Office Memorandum dated 5.8.1992, the services of the applicant and seven others were sought to be terminated w.e.f. 31.8.1992 on completion of the tenure of the project on which the applicant had been engaged. According to the aforesaid Office Memorandum, the services of the applicant as well as the others stood terminated automatically with effect from the aforesaid date. By the aforesaid Office Memorandum, the applicant as well as the others were asked to submit no demand certificates immediately. Aggrieved by the termination of his services, as above, the applicant has filed this OA, praying for a direction to the respondents to keep and continue the applicant in ~~the~~ service and on the post on which he had been working and to regularize his services with all consequential benefits. The aforesaid Office Memorandum dated 5-8-1992 is also sought to be declared as infructuous insofar as the applicant is concerned.

2. The respondents have contested the OA and have filed a counter affidavit as well as a supplementary affidavit in reply to the rejoinder affidavit filed by the applicant. The contention raised by the respondents is that the terms and conditions relating to the appointment of the applicant are clearly laid down in the appointment letter dated 29.9.1989 (Annexure A-1) and, therefore, he cannot claim continuity in service beyond ^{2 1/2 years} ~~the~~ life of the aforesaid project. According

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to them, the funds for the aforesaid project have been provided by the DOD and the entire expenditure including the salary of persons engaged has been met from the funds provided by the DOD specifically for the aforesaid project. The wages of the persons engaged for the aforesaid project, including that of the applicant, have not been paid from the funds belonging to the respondent Nos. 2 & 3. The persons engaged were not even temporary employees of the respondent Nos. 2 & 3. The post of the Lab. Attendant as also the others were advertised specifically for the aforesaid project and the applicant had applied in pursuance thereof.

3. Heard the learned counsel on either side and perused the material placed on record.

4. The applicants' case is that the services of persons like him engaged on a project are usually transferred to other projects following the termination of the life of the earlier project, or else, they are re-engaged on a new project. He has named four different persons who have been treated as above. One of them, namely, Smt. Pradeep Shukla had joined as Lab. Attend. along with the applicant on the same project and on the same date. However, the said Sh. Shukla has been diverted to another job in December, 91 so as to protect his services. Like-wise, the other three persons have also been diverted to other jobs again in order to protect their services. The applicant has been discriminated against and thus he went out of job after 31.8.1992. The applicant has also referred to the judgement of the Hon'ble Supreme Court in Kamlesh Kapoor & Ors. Vs. Union of India & Ors., Writ Petition (Civil) No. 631/88, decided on 5th September, 1989 in which the Supreme Court gave a direction

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to the Indian National Scientific Documentation Centre (INSDOC) and the CSIR to prepare a scheme for the absorption of persons who had been working on casual basis for more than one year in INSDOC (a Unit of CSIR) and to absorb such of ~~was~~ ^{those} satisfied the requirements of the scheme. Consequently, the CSIR formulated a scheme known as "Casual Workers Absorption Scheme 1990". The same was circulated by the CSIR on 4.10.1990 (Annexure A-3). The scheme applied to the workers engaged on casual basis and paid either on daily basis or monthly basis at the CSIR Headquarters and its national Laboratories/Institutes as on 1.1.1990. The scheme was conceived as a ~~one~~ time measure. The scheme applied to those among the casual workers as had completed 240 days in the immediately preceding calender year or who had remained engaged for at least one year as on 1.1.1990. According to the learned counsel appearing for the respondents, the applicant and those placed similarly could not benefit from the aforesaid scheme inasmuch as, having been engaged on 29.9.1989, he could not have completed 240 days as on the ~~cutoff~~ ^{+ aforesaid} date. Furthermore, according to him, the aforesaid scheme applied only to those who were engaged to work at the CSIR Headquarters or in its national Laboratories/Institutes, and not to the persons like the applicant who are engaged to work on specific projects like the one sponsored by the DOD ~~and~~ against which the applicant was engaged.

5. The learned counsel for the respondents submits that the matter concerning the absorption/regularization of persons like the applicant, however, remained under consideration and ultimately on 6.12.1995, another scheme of absorption of casual workers in CSIR and its Laboratories/Institutes was notified (Annexure SCR-2). The new scheme is known as "Casual Workers Absorption Scheme of

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CSIR, 1995". The aforesaid new scheme clearly provides that the same will apply also to casual workers engaged in a sponsored project. According to him, the aforesaid scheme is supposed to take care of the persons like the applicant. The respondents have, according to him, prepared a list of casual workers identified for absorption under the aforesaid new scheme. A copy of the same has been placed at Annexure SCR-3. The aforesad list contained 78 names, including that of applicant at Sl.No.76. The list also contains the name of Shri Pradeep Shukla whose name has been referred to above. The learned counsel for the respondents has submitted that notwithstanding the provisions made in the aforesaid new scheme and despite the applicant's name having been enlisted as above, the applicant has not cared to apply for absorption/regularization. According to him, ~~these~~ ^{2 doors} are still open for the applicant to approach the respondents for the consideration of his candidature for regularisation/absorption.

6. In regard to the aforesaid Shri Pradeep Shukla who has been named by the applicant, the learned counsel appearing for the respondents has drawn our attention to the details supplied in the aforesaid list of 78 persons. The said list clearly shows that Shri Shukla was first engaged on 19.5.1986 and had been continuously working since then. The applicant was engaged, on the other hand, on 29.9.1989. Further, the said Shri Shukla is being paid out of P-4 w.e.f. 1.12.1991 which amounts to payments ^{much later} ~~2~~ out of contingent fund. According to the learned counsel, Shri Shukla was

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being paid out of P-4 earlier also when he was engaged in May, 1986. Thus, according to him, the case of the applicant cannot be compared to that of Shri Shukla. The learned counsel has submitted that the cases of the three others named by the applicant are also similarly distinguishable from the case of the applicant. In view of this, it cannot be said that any discrimination was meted out to the applicant. Furthermore, P-4 payment, to which Shri Shukla is subject, can by no means be equated to regular employment/absorption and accordingly Shri Shukla has also been identified as one who would be considered for regularisation.

7. The learned counsel appearing for the respondents has also submitted that currently there is a ban on open recruitment for filling up entry level vacancies in Groups 'C' & 'D' and the same will continue until all the casual workers engaged in the past have been regularised on satisfying the terms and conditions of such regularisation and have also been absorbed.

8. Drawing our attention to the representation (Annexure A-9) made by the applicant on 11.8.92, i.e., before the life of the project in question ended on 31.8.92, the learned counsel has stated that the said representation was rejected by the respondents on 25.8.92 itself for right reasons. The respondents' OM of 5.8.92 being wholly in accord with the letter of appointment could not be declared as infructuous. Despite this, the learned counsel has stated at the bar that the respondents are still willing to consider the claim of the applicant for regularisation/absorption in accordance with the aforesaid new scheme of 1995.



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9. In the background of the above discussion, we are inclined to think that the ends of justice in this case will be fully met if the OA is partly allowed and disposed of with the following directions.

The applicant will, if so advised, file a fresh representation before the respondents within 15 days from the date of this order. The respondents will consider the same as expeditiously as possible and take a decision thereon within a period of two months from the date of receipt of the representation. In the event of the respondents' decision being adverse to the applicant, the order/decision will state reasons in clear terms so as to enable the applicant to seek further remedy in an appropriate forum in accordance with law.

The present OA is disposed of in the aforesated terms. No costs.



(S.A.T.Rizvi)

Member (A)



(D.C.Verma)

Member (J)

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