

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

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NEW BOMBAY BENCHXXXXXX
T.A. No. 162/87

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DATE OF DECISION 27-4-1988N.K.Maruti Ram PetitionerApplicant in person Advocate for the Petitioner(s)

Versus

Institute of Aviation Medicine, IAF, Respondent
Bangalore & 5 ors.Shri V.S.Masurkar Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C.Gadgil, Vice-Chairman

The Hon'ble Mr. L.H.A.Rego, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? - *Y*
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

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CENTRAL ADMINISTRATIVE TRIBUNAL,
New Bombay Bench, New Bombay.

Tr.A. No. 162/87

N. K. Maruthi Ram,
BT-3, Temporary Colony,
Rasayani,
Raigad dist Maharashtra 410 207.

....Applicant.

vs.

1. Institute of Aviation Medicine,
IAF,
Bangalore-17.
2. Air Officer incharge Administration,
Air Headquarters,
New Delhi-11.
3. Director of Medical Research,
Office of DGAFMS,
New Delhi.
4. Scientific Adviser to Raksha Mantri
and Director General, Defence
Research and Development,
Govt. of India,
Raksha Mantralaya,
New Delhi-11.
5. Secretary, Ministry of Defence, New Delhi.
6. Director General, Armed Forces
Medical Sciences,
'M' Block, New Delhi-1.

....Respondents.

CORAM: Honourable Shri Justice B.C. Gadgil, Vice-Chairman,
and
Honourable Shri L.H.A. Rego, Member(A).

Appearances:

1. Applicant in person.
2. Respondents by Shri V.S. Masurkar, Addl. Standing Counsel.

JUDGMENT:

(Per Shri L.H.A. Rego, Member(A))

DATE: 27.4.1988.

This is an application filed under Section 19 of the Administrative Tribunals Act, 1985, where the applicant, in a rather vague, rambling and prolix manner, prays for amendment of his order of appointment against Armed Forces Medical Research Centre (AFMRC, for short) Projects, by conferring on him the status of a temporary civil servant, in place of that of a casual worker accorded to him, with consequential benefit of arrears in pay and allowances, leave and retiral dues, with interest for belated payment.

2. The salient background to this case is as follows:

The applicant was initially appointed as a Senior Scientific Assistant (SSA, for short) at the Institute of Aviation Medicine, Indian Air Force, Vimanapura, Bangalore (IAM, for short) from 1.12.1973 to 30.11.1975 against AFMRC Project No. 423/71 under the Authority Letter dated 31.7.1973 of the Research & Development (R & D, for short) Headquarters. However, before completing his full term upto 30.11.1975, he tendered his resignation with effect from 1.9.1975. However, he was re-employed as SSA at the IAM against another vacancy in AFMRC Project No. 764/75 from 3.9.1975 to 18.4.1977 under the Authority Letter dated 19.4.1975 of the R & D Headquarters. In both these Projects,

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he was appointed on a casual basis. When his services were no longer required, he was discharged with effect from 31.3.1977. Thereafter, the applicant is said to have been appointed against a regular vacancy with effect from 12.4.1977 till he resigned as SSA on 23.2.1980. During his term under both the above Projects, he was paid consolidated emoluments, monthly, and was not granted annual increments. At the time the present application was filed, the applicant was serving with M/s. Hindustan Organic Chemicals Ltd., Rasayani District Raigad, in Maharashtra. It is learnt that he has since left this job.

3. His service accounts were not maintained by the Air Force Central Accounts Office.

4. According to the respondents, the posts in the Central Government are categorised either as 'permanent' or 'temporary' but not as 'casual'. The incumbent appointed on a casual basis is termed as a 'casual employee' or a 'contract employee' to the temporary post.

5. The applicant alleges that though the posts to which he was appointed were temporary, he was appointed thereto on a casual basis, which was detrimental to his service interests, as he was deprived of the benefit of

revised pay, increments, leave etc. which was available to the incumbents who were conferred a temporary status.

He submits that he submitted a series of representations to various authorities to confer the temporary status on him in the posts in question and to grant him resultant benefit of pay, increments, leave etc. but to no avail.

These representations are seen to have been addressed since 1980. He states that he submitted an appeal to the Secretary, Union Ministry of Defence on 23.7.1983 (Enclosure-3) on the reply given to him by the IAM, but he was informed that the matter was closed. A copy of this reply, however, does not seem to have been furnished by the applicant. He further states that the submitted representations in this regard, even to the Defence Research and Development Organisation, and to the Union Minister of Defence, but there has been no reply. He has, therefore, approached this Tribunal through his present application for redress.

6. The applicant appeared in person and argued his case. Reiterating the contentions urged in his application, he alleged that discriminatory treatment was being meted out in regard to the status of the employees under various Projects in the R & D Organisation. In this

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connection, he referred to Letter dated 22.7.1977 addressed by Air Headquarters, New Delhi, to IAM (Enclosure-7 to his application) to show, that the Junior Scientific Assistants (JSAs) appointed under certain AFMRC Projects were being treated as 'temporary' employees and not as 'casual' or 'contract' employees, as in his case. This, he said, was invidious and violative of Article 14 of the Constitution in regard to Equality.

7. The applicant stated that he had since received arrears of pay and allowances, for the period from 1.11.1974 to 31.3.1977, but not for the period from 1.12.1973 to 31.10.1974, as also for the period from 1.4.1977 to 23.2.1980. He also claimed the benefit of leave encashment and medical reimbursement at approximately Rs. 500/- per annum.

8. Shri V.S. Masurkar, learned counsel for the respondents, stated that the applicant had a misconceived notion that/the post to which he was appointed was temporary, his services too should be ipso facto be treated as temporary and to be given corresponding service benefits. He clarified that the applicant was paid his emoluments from the 'Project Funds' and not from the 'Consolidated Fund' of the Government of India, and as such, he did not

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come within the purview of the Central Civil Services Regulations or of the Central Civil Services (Leave) Rules, 1972. Pay scales of all the regular civilian employees, he said, were revised under CDS (RP) Rules, 1973 with effect from 1.1.1973, but these rules, however, were not made applicable to certain categories of civilian employees specified in Rule 2(2) of the said Rules. The applicant, he said, fell within one of those exempted categories of civilian employees, to whom the rules did not apply and as he was employed purely on 'casual' basis, the benefit admissible to regular civilian employees could not, obviously, be extended to him.

9. Shri Masurkar repelled the allegation of the applicant that his various representations were not considered by the respondents. He stated that all his representations were forwarded to the concerned authorities under intimation to him. The Air Headquarters, New Delhi, under their Letter dated 11.8.1983, finally informed that the Union Ministry of Defence negatived the claim of the applicant on the ground, that his employment was on casual, ad hoc basis for a specific purpose and he was not a regular government employee paid from the "Consolidated Fund" of the Central Government. However, he said that in compliance



with the directions of the Bench of the Tribunal, arrears of pay and allowances on account of revision of pay have been paid to him on 20.10.1987 for the period from 1.11.1974 to 31.3.1977 (amounting to Rs. 4,541.45) and his receipt obtained.

10. We have examined the rival contentions carefully and perused the relevant record. When we first heard the matter on 23.3.1987, the applicant had averred that he would have no grievance if arrears of his emoluments were paid to him according to Letter dated 23.9.1981 from the Union Ministry of Defence. Under that letter, the Government of India was gracious enough to convey the sanction of the President of India for fixation of pay of the applicant, among others, employed against temporary posts on ad hoc basis, under the AFMRC Projects for the period from 1.11.1974 to 31.3.1977 (excluding 2.9.1975, i.e., ~~when~~ the date on which the applicant had not worked), even though the applicant was appointed on a 'casual' basis as aforementioned. The applicant has confirmed that he has received payment of these dues, amounting to Rs. 4,541/- (approx.).

11. Yet, he does not seem to be satisfied. He now claims dues prior to 1.11.1974, i.e., from 1.10.1973 to

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30.10.1974 and from 1.4.1977 to 10.4.1977 and from 12.4.1977 to 23.2.1980 when he is said to have resigned from the post of SSA. Shri Masurkar clarifies that the applicant had not worked during the period from 1.4.1977 to 10.4.1977, that he resigned on 11.4.1977 and that he was employed on a regular basis from 12.4.1977 to 23.2.1980, till he resigned as SSA for which post he has been paid his dues. The applicant also claims encashment of his leave salary and reimbursement of medical charges at Rs. 500/- per annum for the period he had worked.

12. The above claims are highly belated and are preferred through the present application, in some cases nearly after a decade and a half. The applicant could not indicate any rule or basis for claiming medical charges at Rs. 500/- per annum, which ex facie seems frivolous. It is apparent that the applicant is making a desparate claim as above, regardless of the bar of limitation and the credibility of the claim.

13. We are of the view that the respondents have been gracious enough to settle his claim according to the aforementioned Letter dated 23.9.1981 from the Union of India. Further claims now preferred by the applicant, at this distance of time, are clearly hit by the bar of

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limitation and the application is not maintainable, as it relates to a grievance arising from a date more than three years preceding the constitution of the Tribunal, and this Tribunal has, therefore, no jurisdiction, power or authority to entertain this application, according to the decision rendered by the Principal Bench of the Tribunal on 12.3.1986 in V.K. MEHRA v. THE SECRETARY, UNION MINISTRY OF INFORMATION AND BROADCASTING, NEW DELHI. Substantial justice has already been given to the applicant by the respondents, as already mentioned. For all these reasons, we are convinced that the application is bereft of merit and therefore, ^{we} dismiss the same accordingly. No order as to costs.


27.4.1988
MEMBER (A)


27.4.1988
VICE CHAIRMAN.

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