

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NOS.: 1078/99 & 1079/99.

Dated this Wednesday, the 23rd day of February, 2000.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

Hon'ble Shri D. S. Baweja, Member (A).

Mrs. Bela Goyal & Anr. Applicants.

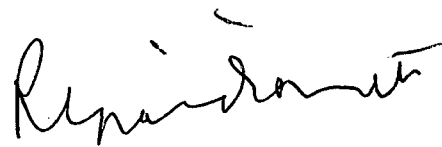
Shri S. P. Saxena, Advocate for
the applicants.

VERSUS

Union Of India & 2 Others, Respondents.

Shri R. K. Shetty alongwith
Shri R. R. Shetty, Advocate for
Respondents.

- (i) To be referred to the Reporter or not ?
(ii) Whether it needs to be circulated to other
Benches of the Tribunal ?
(iii) Library.


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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Dr. (Mrs.) Vanita Puri,
Lecturer (Adhoc),
Department of Chemistry,
National Defence Academy,
Khadakwasla, Pune - 23.

... Applicant in
O.A. No. 1079/99.

Mrs. Bela Goyal,
Lecturer,
National Defence Academy,
Khadakwasla,
Pune - 411 023.

... Applicant in
O.A. No. 1078/99.

(By Advocate Shri S. P. Saxena)

VERSUS

1. Union of India through
The Secretary,
Ministry of Defence,
New Delhi - 110 011.

2. The Commandant,
National Defence Academy,
Khadakwasla, Pune - 23.

3. The Registrar,
Jawaharlal Nehru University,
New Delhi - 110 004.

... Respondents in
both the O.As.

(By Advocate Shri R. K. Shetty alongwith
Shri R.R. Shetty).

ORDER

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

These are two O.As. filed by the respective
applicants for certain reliefs. The respondents have

filed reply. We have heard Shri S. P. Saxena, the Learned Counsel for the applicants and Shri R. K. Shetty alongwith Shri R. R. Shetty, the Learned Counsel on behalf of respondents.

2. Both the applicants have been appointed as Lecturers on adhoc basis in Chemistry Department in the National Defence Academy, Khadakwasla, Pune. The first appointment was in 1997 and it has been extended from time to time by mentioning that it is purely an adhoc appointment and for a limited period.

Now the respondents have issued orders of termination to both the applicants which are dated 08.12.1999 terminating the services of the applicants with effect from 31.12.1999. Aggrieved by these orders, the applicants have approached this Tribunal.

The applicants' main case is that two Service Officers have been brought to the Academy contrary to the rules, resulting in the termination of both the applicants. One of the reasons for termination is reduction in workload, which according to the applicants, is not correct and there is sufficient workload and therefore, the applicants' services could not have been terminated.

3. The respondents in their reply have stated that the appointments of the applicants were purely temporary

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and adhoc for certain period, though extended from time to time. That applicants' services came to be terminated since there is reduction in workload and, therefore, the applicants being adhoc appointee, have no right to claim continuation in appointment.

4. At the time of arguments, the main question mooted was, whether there is reduction in workload or not ?

5. It may be that there is no reduction in the total number of students but there is reduction in workload in Chemistry Department, since many students have opted for the new course in Computer Science. This has been demonstrated by the respondents by filing a chart which shows that in August 1998, the number of students in Chemistry was 1484 and the number was 167 for Computer Science but in Spring 2000, the number of students in Chemistry has come down to 1260 and the number in Computer Science has gone up to 415. It is for this reason the department does not want the full strength in Chemistry Department. There are about eleven adhoc teachers and the applicants being the junior-most lecturers, their services came to be terminated. If there is reduction in the workload in Chemistry Department, how can we direct the respondents to continue the services of the applicants and pay them salary when their service are no longer required in Chemistry Department due to reduction in workload.

6. The argument about bringing two Service Officers and as a result terminating the services of applicants does not appeal to us. The termination order was issued in December, 1999. The Service Officers, namely - Squadron Leader ^{Parikh} was brought to N.D.A. as back as June, 1998. The another Service Officer, Captian M. P. Singh was brought in the place of Major Rastogi. Therefore, those two officers are not brought in the place of the applicants and they have come here prior to the termination order. Therefore, the argument that in order to accomodate the Service Officers, the applicants have been terminated, has no merit.

7. Then it was argued that as per the University Ordinance Act, 1966 (copy of which is at page 20 of the Paper Book), Service Officers cannot be brought to N.D.A. for more than three months, except with the concurrence of the University. For one thing, this is purely a matter between N.D.A. and the University. For another, respondents' counsel made a statement at the Bar that necessary approval has been taken from the University for keeping the Service Officers for more than three months.

Therefore, we do not find any merit in the challenge of the applicants about continuing Service Officers in N.D.A. for more than three months.

8. Respondents' Counsel brought to our notice that as per the departmental rules, the Service Officers

can be brought to N.D.A. in the place of civilian teachers. A copy of the rules is placed before us. Its heading is - "Establishment-2 Peace Establishment Effective from 01.01.1995." At page 8 of the Rules, there is reference to Lecturers (n) and total sanctioned strength is 83. What is meant by "n" is mentioned at page 14 of the Rules. The note under heading (n) is as follows :

- "(i) Service Academic Officers (Captain/Lieutenant ~~IN~~/Flight Lieutenant) may be employed in lieu."

The rule clearly says that Service Academic Officers can be brought in lieu of Civilian teachers. the definition of "lieu" as per the Concise Oxford Dictionary (7th Edition) is 'in place of', 'instead of'. Therefore, in the place of or instead of civilian teachers, Service Officers can be brought to N.D.A.

Therefore, the action of respondents in bringing Service Officers to N.D.A. cannot be faulted as illegal or arbitrary. Under the rules, they have a right to bring Service Officers in place of civilian teachers.

9. It is not a case where the applicants have been replaced by another set of adhoc teachers. It is not a case where applicants' services are terminated casting any stigma or casting any misconduct. This is a case of simplicitor termination of an adhoc appointee due to want of work or reduction in the workload. An adhoc

appointee has no right of a permanent job unless he is appointed as per the Recruitment Rules. It is not disputed before us that regular appointment of a teacher or lecturer can be done only through U.P.S.C. The applicants are not appointed by following the recruitment procedure. Therefore, their appointment ^{is} ~~as~~ ^{ca} adhoc, pure and simple. Their services can be terminated if there is no work in the Academy.

The Learned Counsel for the respondents also brought to our notice that necessary changes are made in the Rules by S.R.O. 32 dated 02.02.1998, copy of gazette notification is produced before us. It is a statutory rule made by the President under Article 309 of the Constitution of India. The total strength of the lecturers is retained at 83 but departmental wise, now according to S.R.O., there is provision only for seven chemistry teachers. Therefore, the department has formed an opinion in ¹⁹⁹⁸ ~~1998~~ itself and amended the rules by bringing down the lecturers in Chemistry Department to 7 and now there are 17 lecturers of whom 11 are adhoc, including the two applicants. Therefore, the action taken by the respondents in reducing the number of lecturers is also according to the statutory rules framed under Article 309 of the Constitution of India.

Having regard to the facts and circumstances of the case, we do not find any merit in both the O.As., since the applicants have been terminated for want of work or reduction in workload.

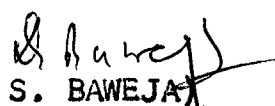


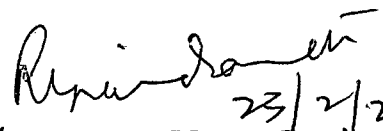
10. Before parting with the case, we would like to observe that in case there is increase in workload in future in the Department of Chemistry and regular candidates are not available and department wants to go in for adhoc appointments, then they should give preference to candidates like the applicants, who have done earlier adhoc service, subject ofcourse, to their seniority.

11. At the time of arguments, the Learned Counsel for the applicants submitted that in case the Tribunal holds against the applicants, then the interim order may be continued for some more time. We have stayed the effect of the termination order by an interim order. If we allow the interim order to continue, then the Government will have to pay the salary of the applicants, even though there is no work for them. Therefore, continuing the interim order will put a burden on State exchequer. If, on the other hand, the interim order is vacated and if subsequently the applicants succeed by approaching the High Court or Supreme Court, then they can be reimbursed by paying them backwages. Therefore, in the circumstances of the case, we are not inclined to continue the interim order, which will put financial burden on the State exchequer.

12. In the result, both the O.As. are rejected at the admission stage. The interim order dated 24.12.1999 and continued from time to time, is hereby vacated.

No order as to costs.


(D. S. BAWEJA)
MEMBER (A).


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.