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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No. 790/96

Date of Order : 26.8.98

BETWEEN :

Smt. S. Umamaheswari

.. Applicant.

AND

1. The Controller,
Dept. of Space, Govt. of
India, Shar Centre,
Sriharikota Range,
Sriharikota.

2. The Union of India, rep. by
The Secretary, Dept. of Space,
Indian Space Research Organisation,
Govt. of India, New Delhi. .. Respondents.

Counsel for the Applicant .. Mr. N. Ramamohan Rao

Counsel for the Respondents .. Mr. V. Vinod Kumar

CORAM :

HON'BLE SHRI R. RAGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B. S. JAI PARAMESHWAR : MEMBER (JUDL.)

O R D E R

X As per Hon'ble Shri B.S. Jai Parameshwar, Member (J) X

Mr. Shiva for Mr. N. Ramamohan Rao, learned counsel for the applicant and Mr. V. Vinod Kumar, learned standing counsel for the respondents.

2. The applicant herein worked as Part-time Primary Teacher under the respondents for a period of 1382 days between 8.11.90 to 30.4.95 with intermittent breaks and also she was not paid during summer vacation between those periods.

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3. The applicant submits that the respondents have changed the designation of the post to Parttime Primary Teacher and reduced the remuneration payable. Subsequently, the applicant was also interviewed for the post of Parttime Primary Teacher and was selected as per order dated 29.9.95 (A-24 Page-40). The applicant was engaged as such from 2.11.95 to 29.1.96 (89 days) (A-25 Page-41).

4. The applicant submitted her representation dated 19.3.96 (A-27 Page-43 to 45). Her representation was replied by the respondents through the impugned letter dated 15.4.96 (A-28 Page-46). Her request for regular appointment under the respondents was rejected.

5. Hence she has filed this OA for the following reliefs :-

- (a) to call for the entire records relating to the issue of the impugned order bearing No.2/4(02/937)93-RMT, dated 15.4.96 given in reply to the representation of the applicant dated 19.3.96 and quash the same as erroneous and untenable;
- (b) to direct the respondents herein to appoint the applicant as a regular Primary Teacher taking in consideration the long spells of services put in by the applicant on adhoc basis;
- (c) to direct the respondents to reserve one vacancy for the applicant, in case, the respondent goes ahead with the issuing of appointment orders based on the interview held on 10.10.95 for the candidates sponsored by the Employment Exchange;
- (d) to direct the respondents to pay the vacation salary to the applicant as per the observations of the Supreme Court in Rattan Lal and Others Vs. State of Haryana and Others (1985 (2) SLJ 437 (SC)) for the last 4 years of service that the applicant has put in as adhoc primary teacher.

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6. She also prays for payment of salary and allowances during summer vacation during the period she was engaged as part-time teacher.

7. The respondents have filed a counter justifying the appointment of the applicant on part-time basis during the above said period and also stating that the applicant had not applied for the post when notified. They have also produced the recruitment rules providing for appointment of part-time teaching staff as well as regular teaching staff.

8. The learned counsel for the respondents submits that the part-time appointment was made inviting applications only from the wards of the employees of the Space Organisation who were stationed in the colony of SHAR. Hence the applicant was given a preferential treatment, not inviting the applications from outside while engaging her as a part-time Primary Teacher. That itself is sufficient to show that the respondents had acted judiciously.

9. The above contention cannot be accepted for the simple reason that they did not take any steps to fill up the post of Primary School Teacher on regular basis since 1991. They allowed the applicant to work on intermittent spells from 1991 to 30.4.95. They should have immediately requested the local employment exchange to sponsor the eligible candidates for filling up the post of Primary School Teacher on regular basis. They did not do so. Probably the respondents felt it was more ^{and economical} beneficial to have a part-time employee disengaging her during summer vacation and to continue as such for a period of 4 years.

10. Infact such a situation was considered by the Hon'ble Supreme Court in the case cited above, and observed as follows :-

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"We, therefore, direct the State Government to take immediate steps to fill up in accordance with the relevant rules the vacancies in which teachers appointed on an adhoc basis are now working and to allow all those teachers who are now holding these posts on adhoc basis to remain in those posts till the vacancies are duly filled up. The teachers who are now working on such adhoc basis if they have the prescribed qualifications may also apply for being appointed regularly in those posts. The State Government may also consider sympathetically the question of relaxing the qualifications of maximum age prescribed for appointment to those posts in the case of those who have been victims of this system of adhoc appointments. If any of the petitioners in these petitions has ~~undef~~ any existing rule acquired the right to be treated as a regularly appointed teacher, his case shall be considered by the State Government and an appropriate order may be passed in his case.

We strongly deprecate the policy of the State Government under which adhoc teachers are denied the salary and allowances for the period of the summer vacation by ~~restoring~~ ^t to the fictional breaks of the type referred to above. These adhoc teachers shall be paid salary and allowances for the period of summer vacation as long as they hold the office under this order. Those who are entitled to maternity or medical leave, shall also be granted such leave in accordance with the rules".

11. From the reported judgement, the Supreme Court had held that not filling up the post for a long period by engaging adhoc teachers is not proper. The Hon'ble Supreme Court in the judgement had observed that an adhoc teacher employee for a long time is liable to be regularised. However, the Supreme Court judgement does not indicate that such regularisation of the adhoc teachers without following the recruitment rule.

12. In this case the recruitment rules clearly state that the candidate should be sponsored by the concerned employment exchange

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when a notification is sent to them. The department did take action though very belatedly calling for candidates from the employment exchange. Unfortunately, the applicant did not register her name in the employment exchange which is her fault. When she had not registered her name in the employment exchange it will be incorrect on our part to direct the respondents to consider her case as also ~~will~~ dehors the rules. Hence considering both the view points that there is some lacuna in not filling up the post by the respondents and the applicant also failed to register her name in the employment exchange. Justice demands an order has to be given so that the interest of both sides are well protected. In view of the O.M. of the DOPT dated 15.6.98 the respondents have to consider the candidates of those candidates who respond to the notification, even though their names are not sponsored by the employment exchange.

13. The applicant now submits that during the vacation period she was not given the salary and she was deemed to have been discharged from the duty during the vacation period. The applicant was discharged only on 30.4.94. If the above irregularity had taken place right from 1991 onwards she should have approached the Tribunal or any other appropriate forum soon after 1991 or 1993. She kept quiet and filed this OA only on 4.6.96. Hence it has to be held that her request is now a very belated one and such a belated request cannot be adhered to.

14. The learned counsel for the applicant submits that non-payment of the salary during vacation is a continuous process and hence her request has to be accepted. It is not understood how the applicant make such a statement that it is a continuous cause. He has not shown any rules or regulations to support that statement.

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15. On view of the above, the following directions are given :

(a) The case of the applicant should also be considered for future vacancies even if her name is not sponsored by the employment exchange. But she should be informed of the notification issued to the employment exchange so as to alert her to apply for the post.

(b) If the applicant had not been paid any leave salary for the vacation one year prior to the filing of the O.A. i.e. the vacation that had taken place after 4.6.94 then she is entitled for the salary during the said vacation only.

16. With the above directions the OA is disposed of.
No costs.

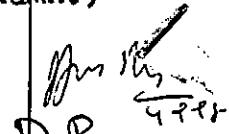

(B.S. JAI PARAMESHWAR)
Member (Judl.)

26.8.98

Dated : 26th August, 1998

(Dictated in Open Court)


(R. RANGARAJAN)
Member (Admn.)


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Copy to:

1. The Controller, Dept. of Space, Govt. of India, SHAR Centre, Sriharikota Range, Sriharikota.
2. The Secretary, Dept. of Space, Indian Space Research Organisation, Govt. of India, New Delhi.
3. One copy to Mr. N. Ram Mohan Rao, Advocate, CAT, Hyderabad.
4. One copy to Mr. V. Vinod Kumar, Addl. CGSC, CAT, Hyderabad.
5. One copy to D.R(A), CAT, Hyderabad.
6. One duplicate copy.
7. One copy to HBSJP, R(J), CAT, Hyderabad.

YLKR

II COURT

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19/8/88
TYPED BY

COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR :
M(J)

DATED:

26/8/88

ORDER/JUDGMENT

M.A/R.A/C.P.NO.

in

C.A.NO. 790/86

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

DISMISSED FOR DEFAULT

ORDERED/REJECTED

NO ORDER AS TO COSTS

YLKR

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

11 SEP 1998

Hyderabad Niyamdharti
HYDERABAD BENCH