

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.481/02

Indore, this the *29*th day of *September*, 2004.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

Kanahiyalal Pushpad
S/o Tulsiram
R/o Quarter No.6
Navodaya Vidyalaya Shyampur
Root-D, Zila Sehore
Posted as Laboratory Attendant
at Navodaya Vidyalaya.

Applicant

(By advocate Kum.M.Dadariya)

Versus

1. Union of India through
Secretary
Ministry of Human Resources Development
New Delhi.
 2. The principal
Jawahar Navodaya Vidyalaya
Shyampur., Dist.Sehore(MP)
 3. Navodaya Vidyalaya Samiti
through Deputy Director
Regional Office at 160
M.P.Nagar, Zone-II
Bhopal (MP)
- Respondents

(By advocate Shri O.P.Namdeo)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following reliefs:

- (i) Direct the respondents to regularise the petitioner as Laboratory Attendant from Dec. 1999 and quash the order dated 26.7.95 (A25), & A-26 dt.6.7.02.
- (ii) Direct the respondents to pay to the petitioner arrears of pay, notionally fixed in the pay scale of other Laboratory Attendants with increments, promotion, pay scale, DA and other consequential benefits.
- (iii) Direct the respondents to follow instructions dated 9.5.91 (A1) and A2 dated 10.10.02.
- (iv) Declare that the contract dated 5.9.02 (A28) is not binding on the petitioner and quash the same.

2. The brief facts of the case are as follows:

Applicant is working with the respondents since Decmeber 1992 as Laboratory Attendant under the control of

Navodaya Vidyalaya Samiti. The post is clear, vacant, sanctioned and unreserved. Instructions were issued to fill up the vacancy from time to time vide order dated 9.5.91 (A-1) and 10.10.2000 (A2). Accordingly the interview was held. Applicant was asked to appear in the interview for the post of Lab Attendant on 3.5.02 (Annexure A3). Applicant refused to serve on contract basis as he has achieved the status of regular employee, since he is working in the Vidyalaya continuously from December 1997 on the post of Lab Attendant. He is qualified for the post and has passed high school examination in the year 2001. He was enrolled with employment exchange at Dist. Sehore. Applicant was sure to be successful in the interview held on 3.5.02 but he came to know that respondents were appointing employees on contract basis as per notice dated 6.4.02 (Annexure A13). Applicant was not ready to apply for the post on contract basis, but he was threatened that either he face the interview or would be dismissed. Applicant feared dismissal in case he disobeyed. Applicant is entitled for regularisation since 28.10.94 when he passed the interview, with arrears of pay, promotion and all consequential benefits with 18% interest under Section 9 of the S.2 Industrial standing order. During pendency of the OA, respondent No.2 threatened the applicant to ^{either} sign the contract or to dismiss him. There was no other way except to sign the contract. At last he had to sign the contract on 5.9.02 (Annexure A28). The action of the respondents is unjustified and illegal. Hence this OA is filed.

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3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant had served the institution of the respondents with utmost sincerity and there was nothing against his work and conduct and he is duly qualified and possessed requisite qualification and experience. As he was not ready to work on contract basis, hence the respondents have taken the illegal action which is unwarranted and unjustified.

4. In reply, learned counsel for respondents argued that the applicant was engaged purely as a contingent employee to work as lab attendant/chowkidar on daily wages on various occasions as per the need of the Vidyalaya. His name was not sponsored by the employment exchange. Recruitment for all non teaching post including lab attendant is to be resorted to only on contract basis. The documents in this regard are annexed. The policy of direct recruitment has been changed. The certificate produced in respect of educational qualification (Annexure ~~21~~ ²¹⁴) is under scrutiny. On the date and time of the examination he worked in the Vidyalaya and has drawn wages for these days. The certificate indicates that he has written the examination and has passed the same during July 2001. on perusal of the certificate it is found that he has attended the examination at Govt. Boys Hr.Sec. School, Jirapur, Raigarh District which is about 200 k.m. away from the Vidyalaya. For the post of Lab Attendant the candidate appeared for the interview and a panel was prepared in which the applicant figures at Sl.No.1 and was given the offer of appointment on contract basis on 5th July 2002 but he refused to accept the offer on contract basis and chose to approach this Tribunal with this OA. on 3.9.2002, a reminder offer of appointment

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was given to him vide letter No. JNV/Sehor/2002/378 and he joined as Lab Attendant on contract basis on 5.9.2002. The applicant after having accepted the contractual appointment should not have any grievance for redressal and even otherwise also the daily rated employees, casual workers or contractual employees have no right for regularisation under law. Hence, the respondents have not committed any irregularity or illegality in their action regarding the case of the applicant.

5. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicant was ^{initially} engaged with the respondents on daily wages as per the need of the respondents. His name was not sponsored by the employment exchange. Later on, on 3.5.2002 an interview was conducted for the post of Lab Attendant. The said post of Lab Attendant, for which the interview was held, was to be filled on contract basis. In the interview the applicant's name appeared at serial No. 1 out of 6 candidates and he was given offer of appointment on contract basis on 6th July, 2002 but the applicant refused to accept it. But later ^{he} the applicant accepted and joined as Lab Attendant on 5.9.2002. In this case the respondents or the applicant himself has not mentioned that his services were terminated after completion of the contract. We further find that the respondents in their reply has stated that as per directions received from the Navodaya Vidyalaya Samiti vide letter dated 1st July, 2001 and another letter dated 19.7.2002, the recruitment for all non-teaching staff including Lab Attendant is to be filled only on contract basis and not on regular basis. In terms of the new



policy when there is no regular post of Lab Attendant then the request of the applicant to regularise him on the alleged post cannot be acceded to. However, we observe that if the applicant is terminated after the ^{his} due period of contract, keeping in view that he is a low paid employee and as he is working with the respondents since 1992, the respondents may consider his case for re-engagement, if in future any vacancy arises for the alleged post, giving precedence over fresh candidates.

6. Accordingly, the Original Application stands disposed of. No costs.

(Madan Mchan)
Judicial Member

(M.P. Singh)
Vice Chairman

पृष्ठांकन सं ओ/ब्या.....जबलपुर, दि.....

परिचालित अद्योहित:-

- (1) ~~राजि. उच्च न्यायालय का एजोसिएशन, जबलपुर~~
- (2) ~~राजि. उच्च न्यायालय का एजोसिएशन, जबलपुर~~ *Ku. M. Dadaay H C 137*
- (3) ~~राजि. उच्च न्यायालय का एजोसिएशन, जबलपुर~~ *Shri. OP Nandoo H C 137*
- (4) ~~राजि. उच्च न्यायालय का एजोसिएशन, जबलपुर~~

Handwritten signature
जय राजि. उच्च न्यायालय

*Issued
On 4-10-04
BS*