

Central Administrative Tribunal
Principal Bench
New Delhi

T.A.No.26/2012

Order Reserved on: 27.04.2016
Order pronounced on 05.05.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Dr. B. K. Sinha, Member (A)

P.K.Palta
S/o Late Shri Rakha Ram
r/o A/2-20-B, Lawarance Road
Delhi – 110 035. ... Applicant

(By Advocate: Shri T.N. Tripathi)

Versus

1. V.P.Chest Institute
Delhi University, Delhi-110 007
Through its Director.
2. Centre for Biochemical,
V.P.Chest Institute
Through Scientist/Investigation-Incharge.
3. Council of Scientific Industrial Research
Rafi Marg, New Delhi
Through its Directorate General
4. Indian Institute of Experimental Medicines
4, Raja Subodh Wullick Road,
Calcutta – 700 032
Through its Director.

5. C.S.I.R., Rafi Marg

New Delhi

Through its Chief (Administration). .. Respondents

(By Advocate: Ms. Neha Bhatnagar)

ORDER

By V. Ajay Kumar, Member (J):

Aggrieved by the action of the respondents in terminating the services of the applicant by stating that his services will not be required w.e.f. 31.03.1979, in view of coming to an end of the ICAR Scheme on "Utilization of Slaughter House By-Products", and for reinstatement with retrospective effect, i.e., 30.03.1979, with all consequential benefits the applicant initially filed OS No.684/1979 which was later renumbered as OS No.173/1995 on the file of the Civil Court, Delhi. The said Suit was decreed in his favour on 30.11.1996 and the appeal filed by the respondents was also dismissed.

2. Thereafter, in further proceedings, for execution, the Hon'ble High Court vide its order dated 22.05.2012 in Ex.F.A.10/2012, after noting that the Civil Court has no jurisdiction in view of the Notification of the CSIR under the Administrative Tribunals Act, 1985, directed that the Suit stand transferred to this Tribunal from the stage of passing of the Notification dated 31.10.1986. Accordingly, the Suit, which is now numbered as TA No.26/2012, itself, required to be decided afresh without reference to the other proceedings/orders etc. passed at various stages by various Courts.

3. Counsel for both sides, also accept that, in view of the order of the Hon'ble High Court of Delhi dated 22.05.2012, and in view of lack of jurisdiction to Civil Court as on the date of passing of decree in the Suit, the original suit OS No.173/1995 (now TA 26/2012), itself should be decided afresh, though the Hon'ble High Court has not specifically set aside the orders in Original Suit or appeal.

4. Heard Shri T. N. Tripathi, the learned counsel for the applicants and Shri Ms. Neha Bhatnagar, the learned counsel for the respondents, and perused the pleadings on record.

5. Though the applicant raised various grounds in support of the TA averments, but at the time of final hearing Shri T. N. Tripathi, the learned counsel for the applicant, submitted that he is pressing only one ground that is since the applicant was absorbed permanently into the service of the 3rd Respondent-CSIR, the impugned termination order passed by the Investigator – In-charge of the 1st Respondent-V.P.Chest Institute, is by an incompetent authority and accordingly the same is liable to be set aside, with all consequential benefits.

6. It is submitted that the applicant, on being sponsored from the Employment Exchange and on participating in the interview held on 06.09.1971, was selected for appointment to the post of Upper Division Clerk-cum-Accountant on a project of ICAR entitled

“Utilization of Slaughter House By Products”, in Bio-chemicals Unit at Vallabhabai Patel Chest Institute, University of Delhi, vide Memorandum dated 25.09.1971 (Annexure A). During emergency, initially his services were terminated vide Order dated 18.10.1976 and thereafter after withdrawing the notice of termination, he was forced to resign and the same was accepted. After lifting the emergency, the applicant was allowed to withdraw his resignation with retrospective effect, along with another employee and accordingly, he joined duties on 06.07.1977. However, the services of the applicant were terminated as stated above vide Memorandum dated 23.02.1979 by stating that the ICAR Scheme itself come to an end w.e.f. 31.03.1979.

7. It is submitted that vide Office Order No.511 dated 17.08.1977 CSIR took over the administrative control of the Bio-Chemical Unit from the V.P.Chest Institute, Delhi University w.e.f. 01.07.1977. It is further submitted that when the CSIR vide the Office Order No.511 dated 17.08.1977 taken over the administrative control of the Bio-Chemical Unit from the V.P.Chest Institute, Delhi University, Delhi w.e.f. 01.05.1977, the V.P.Chest Institute has no power or authority to terminate the services of the applicant.

8. The respondents, on the other hand, submit that the applicant was never appointed on regular basis in any of the respondent-Institutes. His appointment itself was for a limited purpose for a limited tenure, i.e., for implementing the project of “Utilization of

Slaughter House By-products”, and once the project is completed, the applicant will not have any right for continuation of his service. His appointment is co-terminus with the said Project. None of the documents filed by the applicant show that he was appointed on regular basis at any point of time. The change of administrative control of the project does not take away the power of the V.P. Chest Institute to terminate the services of the applicant, on completion of the Project.

9. It is not in dispute that the applicant was appointed on a temporary basis and in connection with the implementation of the ICAR Project titled “Utilization of Slaughter House By-products”. Any appointments made in respect of any projects with limited time schedule, may be terminated on completion of the said Project, unless the appointments were made permanent in the meanwhile either by the project implementation authority or by any other authority. Admittedly, the applicant failed to show any valid document indicating whether he was regularly appointed subsequent to his joining services in the project and before his termination.

10. No temporary employee, who was appointed in any time bound project, shall have any right for continuation even after completion of the said project. It is also not the case of the applicant that even after his termination the project is continued and that any other identically placed persons were continued by the respondents. The documents

relied on by the applicant regarding taking over the administrative control and absorption refers only to the permanent employees but not the temporary employees like the applicant, who were appointed purely for the project purposes. Further, it is seen that even after the administrative control of the project was taken over by the CSIR, the applicant and the Karmachari Sangh wherein the applicant was a member, dealt with the V.P.Chest Institute with regard to their service conditions.

11. In the circumstances, and for the aforesaid reasons, the TA is devoid of any merit and the same is accordingly dismissed. No order as to costs.

(Dr. B. K. Sinha)
Member (A)

(V. Ajay Kumar)
Member (J)

/nsnrvak/