

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.830/2017

Friday, this the 10th day of March 2017

Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)

Dr. Dalvir Singh, age 61 years
(State Epidemiologist) Group A
s/o late Mr. Laxman Singh
r/o 2269-70, Shora Kothi
Subzi Mandi, Clock Tower
Delhi – 7

..Applicant

(Mr. Harish Kumar Mehra, Advocate)

Versus

1. Ministry of Health & Family Welfare
Govt. of NCT of Delhi
Through its Secretary
9th Floor, Delhi Secretariat
I P Estate, New Delhi
2. Integrated Diseases Surveillance
Programme (IDSP), Delhi
Through its State Surveillance Officer
F-17, Karkardooma, Delhi – 32
3. State Health Society, Delhi
Through its Chairman
Vikas Bhawan II, 6th floor
Civil Lines, Delhi – 54
4. Govt. of NCT of Delhi
Through its Secretary
IP Estate, New Delhi

..Respondents

O R D E R (ORAL)

Justice Permod Kohli:

The applicant was engaged as Epidemiologist (Consultant) on a consolidated emoluments `25,000/- purely on contract basis vide letter dated 29.06.2009 (Annexure A-1). Under condition No.3 of the said letter, the contract was for a period of one year. The contract seems to have been

extended from time to time. The last extension was up to 31.03.2016 vide office order dated 11.02.2016 (Annexure A-6). A proposal was also made for extension of contractual period of the applicant w.e.f. 01.04.2016 to 31.03.2017 vide a Note dated 30.03.2016 (page 55 of the paper book). The grievance of the applicant is that he was allowed to work up to July 2016 and thereafter his contract has not been extended and he has not been allowed to perform the functions. This O.A. has been filed seeking following reliefs:-

- “i) direct the respondent to extend the services of the applicant w.e.f. 1.4.2016 to 31.3.2017 and thereafter from 1.4.2017 to 31.3.2018 and subsequently from time to time upto the period when the applicant attains the age of 65 years on the post of State Epidemiologist with State Surveillance Unit, Integrated Disease Surveillance Programme, Govt. of Delhi, with full back wages upto the date of joining;
- ii) direct the respondent to release/pay the salary of the applicant w.e.f. 1.4.2016 till 23.7.2016 and also to pay expenses for tour attended by him of IDSP Review meeting at Jaipur from 9th to 11th May 2016;
- iii) direct the respondent to pay the arrears of enhancement of salary @ 10% for 2015-2016 and 2016-2017;
- iv) award costs of the proceedings; and
- v) pass any other order(s) as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

2. Learned counsel for applicant submits that the respondents have decided to enhance the age of the Epidemiologist (Consultant) up to 65 years and thus the applicant is entitled to be continued on contract basis up to the age of 65 years. Accordingly, the prayer is made for seeking a direction to the respondents to extend the contract.

3. The second prayer of the applicant is for payment of salary for the period from 01.04.2016 to 23.07.2016 and also to pay him the expenses for tour attended by him at Integrated Diseases Surveillance Project (IDSP) review meeting, Jaipur from 9th to 11th May 2016.

4. We have heard the learned counsel for the applicant. Admittedly, the engagement of the applicant was on contract basis. The appointment letter, referred to above, clearly provides that the engagement is purely on contract basis and is terminable in nature. The applicant has also placed on record a copy of the contract agreement. The clauses of the agreement clearly indicate that the nature of engagement is contractual in nature and could be extended at the request or otherwise. Condition No.7 (b) & (c) of the agreement further provides that the contractual arrangement may be terminated by either party by giving one month's written notice and the engagement is purely temporary arrangement and will not confer any right upon the appointee.

5. It is well settled law that a contract of service is not enforceable in law, particularly where the contract is terminable in nature. In exercise of powers of judicial review, such a direction is impermissible in law. No such contract can be enforced even if there is breach. We do not find any merit in this O.A., insofar as the relief concerning extension of the contract is concerned. However, we find that the applicant is entitled to the salary subject to the condition that he has performed the duties in accordance with the assignment.

6. In this view of the matter, this O.A. is being disposed of at the admission stage permitting the applicant to make a representation to the

respondents in respect to the salary for the period from 01.04.2016 to 23.07.2016; the period he claims to have worked and discharged his duties, and also for his claim of expenses incurred for attending the IDSP review meeting at Jaipur from 9th to 11th May 2016. Apart from this, the applicant is also claiming hike of 10% in the pay. This claim may also be incorporated in the representation. The applicant is permitted to make representation to the competent authority within two weeks. The competent authority, on verification of the contents of the representation, will take a decision and in the event it is found that the applicant has really performed the duties and is entitled to the tour expenses as also the hike in the pay, the same shall be released to him within a period of three months from the date of receipt of the representation from the applicant. In the event, the claim is to be rejected, the same shall be done by passing a reasoned and speaking order.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

March 10, 2017
/sunil/