

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH**

**OA NO.3017/2014**

NEW DELHI THIS THE 21<sup>st</sup> DAY OF SEPTEMBER, 2016.

**HON'BLE MR P.K. BASU, MEMBER (A)**  
**HON'BLE DR BRAHM AVTAR AGRAWAL, MEMBER (J)**

Partha Pratim Bhattacharjee,  
1/4, Bansdroni New Govt. Colony,  
P.O. Bansdroni,  
Kolkata -700070.

...Applicant

(By Advocate: Shri Gaurang Kanth)

VERSUS

1. Union of India  
Through the Secretary,  
Ministry of Rural Development,  
Krishi Bhawan,  
New Delhi-110014.

2. National Institute of Rural Development  
And Organisation of Ministry of Rural  
Development, Rajendra Nagar,  
Hyderabad-500 30.

...Respondents

(By Advocate: Shri Hilal Haider)

**ORDER (Oral)**

**HON'BLE SHRI P.K. BASU, MEMBER (A):**

The applicant was working on the post of Technical Assistant in IIT Kharagpur, in which post he joined on 05.11.2003 on probation of one year. Thereafter, on successful completion of the said period, the applicant was made a permanent employee in IIT, Kharagpur. In the meantime, the National Institute for Rural Development (NIRD) had advertised for the post of Assistant

Professor on deputation basis for a period of 3 to 5 years. He applied for the same and was selected. Initially, he joined on 22.10.2008 on deputation basis for a period of two years and not exceeding three years. Subsequently, on 25.02.2009, the applicant requested to respondent no.2 to convert Lien to deputation. IIT, Kharagpur vide order dated 06.05.2009 conveyed their no objection subject to condition that the Leave Salary and Pension contribution is paid by Respondent No.2. Vide order dated 08.06.2009, Respondent no.2 converted Lien appointment to deputation. Thereafter, Respondent No.1 requested Respondent No.2 to place the applicant's services at the disposal of Respondent No.1 to help in the activities of BPL Census in May 2010. Applicant was released at the disposal of Respondent No.1 vide Note dated 19.08.2010 and applicant joined Respondent No.1 on 25.08.2010.

On the request of the applicant and Respondent No.1, Respondent No.2 took up with IIT, Kharagpur proposal for extension of Lien of the applicant for 3 years. Respondent No.1 also took up the matter vide letter dated 05.10.2010 to extend applicant's deputation period for one more year. However, IIT, Kharagpur vide letter dated 27.10.2010 rejected his request for extension of deputation on the ground that there was no provision for extension of deputation in IIT Rules and Instructions and also asked the applicant to join back in IIT, Kharagpur by 01.11.2010. The learned counsel for applicant stated that after

refusal by IIT, Kharagpur, Respondent No.1 refused to release the applicant on the ground that applicant's services is very much required in Census work in national interest. The applicant approached Secretary, Ministry of Rural Development on 30.10.2010 and the Secretary assured him orally that he will again make a request to IIT, Kharagpur and if IIT, Kharagpur still disagree, applicant will be permanently absorbed by Respondent No.1 or Respondent No.2. IIT, Kharagpur, on the request of Respondent No.1, wrote back vide letter dated 11.11.2010 that while they could not agree to extension of deputation, they have no objection if Respondent No.1 permanently absorbs the applicant. On 14.01.2011 MoRD requested Ministry of Human Resource Development for extension of deputation period. The applicant wrote to MoRD on 31.1.2011 (Annexure 2) seeking to know status of his absorption and that in case absorption is not possible to release him to join IIT, Kharagpur. He received no response and neither was he relieved by Respondent No.1.

2. IIT, Kharagpur, vide order dated 07.04.2011, terminated the services of the applicant with effect from October 16, 2010, though it is not clear why IIT, Kharagpur terminated his services with effect from 16.10.2010 when IIT, Kharagpur itself asked the applicant to join back his parent department by 01.11.2010.

3. Much later, on 13.04.2012, an Office Order No.43 was issued by the NIRD by which the applicant was continued as Assistant Professor on deputation basis from the date of his joining the NIRD i.e. 22.10.2008. This order also stated that on completion of the third year of deputation on 21.10.2011, his deputation term is further extended for the period of fourth year from 22.10.2011 to 21.10.2012.

4. It is stated by the learned counsel for the applicant that beyond 21.10.2012 there has been no extension of deputation and he is continuing as a Consultant with the NIRD on the basis of payment of a lump-sum amount.

5. Now, the applicant's situation is that his services have been terminated by IIT, Kharagpur and he is working in NIRD on adhoc basis on payment of a lump-sum amount. Being aggrieved by this situation, he has filed this OA with the following prayers:-

- "a) Allow the present OA and direct the Respondents to absorb the services of the Applicant permanently and regularize him w.e.f. 16.10.2010 as Assistant Professor or in any other equivalent post either with respondents no.1 or with respondent no.2 with all consequential benefits.
- b) Direct the respondents to pay the cost of litigation and any other relief which could be deemed fit for the applicant.

- c) Pass any other order(s) or further orders as may be deemed fit in the interest of justice and equity."

6. Mr. Hilal Haider, learned counsel for the respondents states that the applicant was fully aware of the developments from the very beginning and during his lien/deputation period, all that happened was on his own volition. It is further submitted that the applicant had not made any request for repatriation to his parent department and the respondents had informed the applicant that IIT, Kharagpur had issued a notice for him to join to his parent department by 01.11.2010. Secondly, it is argued that the applicant has no right to be absorbed in the NIRD/Ministry of Rural Development.

7. It is stated by the learned counsel for the applicant that he lost his permanent job in IIT, Kharagpur on the promise of absorption in NIRD, which never materialized. Learned counsel for the applicant also pointed out that the respondents have regularized the service of two people, namely, Shri Harish Kumar Solanki and Dr. Aryashree Debapriya, who had come on deputation, like the applicant, and they were absorbed by the NIRD vide order dated 01.01.2014 and 14.11.2013 respectively. With regard to the absorption of Shri Solanki and Dr. Debapriya, learned counsel for the respondents states that they had come on deputation from Government of Rajasthan and Madhusudhan Institute of Co-operative Management, Bhubaneswar

respectively, and they were still working on deputation at the time of absorption, whereas, in the case of the applicant, his deputation had expired after two years w.e.f. 27.10.2010 and the two cases are distinguishable and the applicant cannot seek parity with these two.

8. We have heard the learned counsel for the parties, perused the pleadings and given our thoughtful consideration to the matter.

9. The applicant, who was working in his parent department as Technical Assistant in IIT, Kharagpur, had opted for the deputation to NIRD, perhaps, as it offered the better designation of Assistant Professor and also a higher pay scale. In fact, the deputation was extended beyond two years with retrospective effect, vide order dated 13.04.2012. This order clearly is illegal, because IIT, Kharagpur had made it clear that there could be no extension of deputation beyond two years as per rules. The question of his absorption was never decided by the R-1 or R-2 but they kept on taking work from the applicant much beyond the deputation period. Due to this, the applicant has lost his job in IIT, Kharagpur and now is on the street, at the mercy of R-1.

10. The facts of the case bring out quite clearly how the applicant has been taken for a ride by Respondent No.1, namely the Secretary, MoRD. He kept back the applicant for self

aggrandisement, to achieve glory and receiving accolades from Government and his bosses for having completed the Census job. He was clearly aware that without the applicant he would not achieve his mission. Yet, while he pursued his goal, in his selfishness, he let the poor applicant be trampled upon under the giant feet of his ambition just as Pharaohs of yore built the mighty Pyramids for self glorification crushing hundreds of slaves under the piling stones! The Secretary was aware IIT, Kharagpur was not ready for extension. Yet he kept on hoodwinking the applicant that he would get him his extension and if not he would get him absorbed in MoRD or NIRD. He did not let the applicant revert to IIT Delhi. In fact, he was even illegally continued on deputation after two years. To fool the applicant, letters were written to IIT, Kharagpur and MHRD whereas, being Secretary to Government of India, he knew jolly well that nothing could come out of such letters. The applicant, being a naïve scientist, failed to see through this chicanery and deceit of his Secretary. Bureaucratic games are alas, at times, much more complicated than mathematical theorems and algorithms!

11. In view of the above, we are of the opinion that the individual right of the applicant needs to be protected as grave injustice has been done to him. We, therefore, allow this OA and direct the respondent namely Respondent No.2 (NIRD) to issue orders to absorb the applicant against the post of Assistant

Professor with effect from 16.10.2010 that is from the date on which his appointment in IIT, Kharagpur was terminated, with all consequential benefits. It is made clear that in case no vacant post of Assistant Professor exists, a supernumerary post shall be created. A time frame of 90 days from the date of receipt of a copy of this order is fixed for compliance of this order. The applicant has suffered tremendous mental torture and agony as also financial hardship in this case including litigation expenses. We, therefore, award a cost of Rs.50,000 on the respondents to be paid to the applicant. However, we are of the opinion that the public exchequer (which is primarily tax payers money) should not be burdened as the Secretary, MoRD at that time, namely in October- November 2010, is solely and wholly responsible. Thus, the cost should be recovered from him/her.

**(DR BRAHM AVTAR AGRAWAL)**  
**MEMBER (J)**

**(P.K. BASU)**  
**MEMBER (A)**

/JK/