

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-2849/2014

Reserved on : 18.09.2018.

Pronounced on : 24.09.2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

Sh. Krishan Kumar,
Aged 39 years
S/o Shri Kitab Singh,
R/o D-1/428, Sultanpuri,
Delhi-86.

..... Applicant

(through Sh. C.N. Sreekumar, Advocate)

Versus

1. Project Officer,
National Cancer Registry Programme (Operational)
Wing, No. BP-21(NCRP),
Indian Council of Medical Research
V. Ramalingaswami Bhawan,
Ansari Nagar, Post Box-4911,
New Delhi-110029.
2. Indian Council of Medical Research
Through its Asstt. Director General (Admin),
V. Ramalingaswami Bhawan,
Ansari Nagar, Post Box-4911,
New Delhi-110029.
3. The Sr. Administrative Officer,
Indian Council of Medical Research,
V. Ramalingaswami Bhawan,
Ansari Nagar,
New Delhi-110029.
4. National Cancer Registry Programme-ICMR
Rep. by its Director in Charge,
National Centre for Disease Information & Research,
Nirmal Bhawan, ICMR Complex,
Poojanahalli, Off. NH-7,
Kannamangala Post,
Bangalore-562110.

5. Union of India,
Rep. by its Secretary to Government,
Ministry of Finance,
New Delhi-110001.

.... Respondents

(through Sh. Raju Dudani, Advocate)

ORDER

Briefly stated, the facts of the current O.A. are that the applicant is working as a Driver in the National Cancer Registry Programme (Operational Wing) under the Indian Council of Medical Research (ICMR) since 2003 and is attached with Head (NCD). In the 76th meeting of the governing body of ICMR held on 28.01.1999, it was decided to treat the project as a long term project.

2. The applicant states that a similarly situated person Sh. M. Rajendra, who was appointed as driver in Bangalore under the same project filed OA-392/2010 (Sri. M. Rajendra Vs. DG (ICMR) before the Bangalore Bench of Central Administrative Tribunal, which was allowed on 29.09.2011 in terms of the directions given by the Hon'ble High Court of Madras in WP No. 25490/2002 & batch dated 25.08.2006.

3. By an order dated 09.01.2014/23.01.2014, the ICMR rejected the representation of the applicant for absorption. Thereafter, the applicant again submitted a representation dated 13.03.2014 to review the rejection order dated 23.01.2014. Applicant in OA-

392/2010 (Sri. M. Rajendra) again filed OA-547/2013 before Bangalore Bench of CAT, which was disposed of on 21.02.2014 directing the respondents to finalize the Scheme framed for absorption of all long term project employees including NCRP within a period of six months and consider the case of the applicant in terms of the said Scheme.

4. Aggrieved, the applicant has filed the current O.A. seeking the following reliefs:-

“(a) Issue a writ of certiorari quashing annexure: A3 Order dated 23.01.2014 passed by the respondents.

(b) Issue a writ of mandamus directing the respondents to appoint the petitioner on regular basis and give him all benefits as are given to regular employees and also give all the benefits given to Shri M. Rajendra driver working with the respondents.

(c) Allow cost.”

5. In reply, the respondents have taken a preliminary objection that no cause of action has accrued to the applicant to file the O.A. They state that merely because certain persons were regularized by way of implementation of orders of the Tribunal, does not confer similar right on the applicant. In support, they have placed reliance on the following judgments:-

(i) **Secretary, State of Karnataka Vs. Uma Devi**, 2006 AIR SCW 1991.

(ii) **State of Punjab Vs. Jagdip Singh**, AIR 1964 SC 521.

(iii) **Madhya Pradesh Vs. Y.C. Dube**, 2006(9) SCALE 73.

The respondents further submit that the applicant was appointed on purely temporary and ad hoc basis and his employment was co-terminus with the project. It was also mentioned in the order that the post will be purely for the purpose of particular project and will be outside the cadre of regular post of ICMR Institute and that the person will not be entitled to any other benefit applicable to the regular employees of ICMR other than those mentioned in the order of appointment. These projects never attain the character of permanency, and are limited to the objectives for which they were set up, being funded on a yearly basis. Thus, the post against which the applicant was appointed cannot be treated as regular one. Representation submitted by the applicant was disposed of with a detailed and reasoned speaking order dated 09.01.2014/23.01.2014.

6. During the course of hearing, learned counsels for the parties reiterated the submissions made in O.A. and counter reply. I have considered the rival submissions of both the parties. It is not disputed that the applicant is similarly situated like the applicant in OA-392/2010 and OA-547/2013 (Shri M. Rajendra) in aforementioned OAs. Adopting the same reasoning and without going into further details, the present O.A. is allowed. The impugned order dated 23.01.2014 is quashed and set aside. The respondents are directed to grant similar benefits to the applicant as given to Shri M. Rajendra, while working with the respondents. This may be done within a

period of three months from the date of receipt of a certified copy of this order. No costs.

(Praveen Mahajan)
Member (A)

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