

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 1634/2018

Reserved on: 25.04.2018
Pronounced on: 27.04.2018

**Hon'ble Mrs. Jasmine Ahmed, Member (J)
Hon'ble Ms. P. Gopinath, Member (A)**

Mr. Kamidi Suresh
(Project Assistant)-IT Section
Analysis & Monitoring
Aged : 36 years
S/o Shri Kamidi Venkanna
R/o 8-B, G/Flr, CPWD Quarters,
CGH Complex, Vasant Vihar,
New Delhi-110057 ... Applicant

(Through Shri R.K. Shukla, Advocate)

Versus

1. Union of India through
The Secretary
Ministry of Ayush
Ayush Bhawan,
B Block, GPO Complex, INA
New Delhi-110023
2. Ministry of Science and Technology
Through Director General,
Council of Scientific and Industrial Research
Anusandhan Bhawan, 2, Rafi Marg,
New Delhi-110001
3. Traditional Knowledge Digital Library Unit
Through Head,
CSIR-TKDL Unit,
CSIR-NISCAIR Building
14, Satsang Vihar Marg,
New Delhi, UP-110067

(Through Shri R.K. Sharma, Advocate)

ORDERMrs. Jasmine Ahmed, Member (J)

This is second round of litigation wherein this Tribunal disposed of first OA filed by the applicant being OA No.2278/2016 along with CP No.310/2017 vide its order dated 8.01.2018. While disposing of the OA as well as the CP, this Tribunal observed as under:

“9. In the circumstances, the instant O.A. is disposed of by permitting the applicant to make an appropriate application for reengagement of his service within one week from today and on receipt of the same, the respondents shall consider the same and pass appropriate orders within two weeks from the date of receipt of the application from the applicant, however, the same shall be in terms of the orders already passed by this Tribunal. It is also made clear that the applicant is not entitled for any arrears/salary for the period in which he has not worked.

10. The CP and the pending MAs, if any, also stand disposed of. No order as to costs.”

2. In response to an advertisement issued by the respondents in the year 2008, the applicant applied and was appointed on contract/ temporary basis in Traditional Knowledge Digital Library (TKDL) to work under projects. It is the contention of the learned counsel for the applicant that the term of contractual appointment of the applicant was extended from time to time. It is also contended that the project in which the applicant is working is an ongoing project and for obvious reasons the services of the applicant

needed to be continued. However, his services were discontinued and accordingly the applicant filed OA 2278/2016 for continuation of his service in the same project and also not to remove or replace him by another contractual employee. An order was passed by this Tribunal on 15.07.2016 directing the respondents that services of the applicant shall not be discontinued but the respondents terminated his services. Then the applicant had to file Contempt Petition No.310/2017 for not complying with the order dated 15.07.2016. Notice was issued in the Contempt Petition and respondents filed their counter also. Both OA and CP were listed on 8.01.2018 and both the petitions were disposed of in terms stated above. As per directions of this Tribunal, the applicant gave a representation on 11.01.2018 for his reengagement as TKDL. He again submitted a representation through email on 29.01.2018. Another representation through email was submitted on 8.02.2018 for issuance of joining orders but vide order dated 21.02.2018 the respondents have rejected the claim of the applicant, which has been challenged by the applicant in this OA.

3. We have gone through the impugned order dated 21.02.2018. It is an undisputed fact that the applicant was appointed under a Project on a temporary/ contractual basis. It is contended by the learned counsel for the applicant that from time to time the services of the applicant were extended and there are several projects wherein the respondents could

easily accommodate him. The learned counsel for the applicant also claimed that his case is identical with the case of **Dr. Sneh Lata Jain Vs. Ministry of Health and Family Welfare**, OA 509/2015 and **Manish Tare Vs. Ministry of Health and Family Welfare**, OA 3587/2015. Accordingly, as they are continuing in service, the respondents should have continued him also in service. He further stated that the respondents cannot engage anybody else from outside in the Projects.

4. While disposing of OA 2278/2016 (supra), this Tribunal directed the applicant to make an appropriate application for reengagement in service and the respondents were directed to consider the same and pass appropriate orders. It is seen that the respondents have passed a detailed order dated 21.02.2018 wherein they have categorically stated that the case of the applicant and that of **Dr. Sneh Lata Jain** (supra) and **Manish Tare** (supra) is not identical as they were never terminated by TKDL Unit but the applicant's term was not extended as his services were not recommended by the Review Committee. Applicant's services were terminated with effect from 9.04.2015. It is also stated that the applicant was engaged in a project no.HCP0006 of CSIR-TKDL Unit in April 2012, which has already come to an end on 31.03.2017 being a five year Planned Project. Hence the prayer of the applicant for reengagement cannot be entertained. It is further stated in letter dated 21.02.2018 that the applicant

can apply afresh against vacancies in other projects if he fulfills the eligibility criteria.

5. In our considered opinion, the applicant who was appointed on a temporary basis in a project cannot claim continuation of his services if the project is itself terminated/completed. The appointment of the applicant was for a particular project and after the completion of that project his services are no more required. Hence any cause for continuing to engage the applicant in service does not arise. But as per the contention of the applicant, there are other ongoing projects and also fresh projects which are being advertised from time to time against which he can be considered.

6. Taking into consideration expertise and experience the applicant has gained while working with the respondents, they are directed to give preference to the applicant over freshers and outsiders, if he applies for any other ongoing project and fulfils the eligibility criteria as per the requirement of the project. We are fortified in our view by the judgment of the Hon'ble Apex Court in **Piara Singh Vs. State of Haryana**, 1992 (4) SLR 770, where it has been held that an ad hoc or temporary employee should not be replaced by another ad hoc or temporary employee and he could be replaced only by a regularly selected employee. Thus, we direct that whenever there occurs a requirement for

engagement of a new temporary employee, the applicant will have a preferential right on such engagement, if he applies in an ongoing project or future project. OA stands disposed of with the above direction.

(P. Gopinath)
Member (A)

(Jasmine Ahmed)
Member (J)

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