

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00460 /2017

DATED THIS THE 1st DAY OF FEBRUARY, 2018

HON'BLE DR. K.B. SURESH, MEMBER(J)

HON'BLE SHRI PK.PRADHAN MEMBER(A)

Dr.SP.Raghunath,
Chief Engineer, IIT,
R/at No.350, 2nd Cross,
2nd Phase, Ideal Home Township,
RR Nagar,
Bangalore-560 098.

#..Applicant

(By Party in Person)

Vs.

1. The Secretary,
Department of Higher Education,
Shastri Bhavan,
New Delhi-110 001.

2.The Under Secretary (TS-1),
MHRD, Shastri Bhavan,
New Delhi-110 001.

3.Indian Institute of Technology,
WALMI, PB.Road,
Dharwad 580011.

#.Respondents

(By Shri M.V. Rao, Senior Panel Counsel)

O R D E R (ORAL)

HON'BLE DR. K.B. SURESH, MEMBER(J)

1. Heard. Apparently, for a similar relief the applicant had approached the Hon'ble High Court of Madhya Pradesh sitting at Indore vide WP.NO.4689/2015 which was disposed of by the said High Court vide order dated 23.7.2015 which we now quote:-

"WP.NO.4689/2015
23.7.2015

Shri A.K.Sethi, learned Senior Advocate with Shri H. Joshi, learned counsel for the petitioner.

Shri Piyush Mathur, learned Senior Advocate with Shri Amit Pal, learned counsel for the respondent No.1 on advance notice.

Heard on the question of admission and interim relief.

This writ petition has been filed by the petitioner challenging the relieving order dated 09.07.2015 whereby the petitioner has been relieved from the post of Chief Engineer Project w.e.f. 11.07.2015 on expiry of the period of contract.

Learned counsel appearing for the petitioner submits that the petitioner was appointed on contract for a period of five years and he has been relieved before completion of the said five years period. In this regard he has referred to the documents Annexure P-4. He has further submitted that the petitioner, vide

order dated 06.03.2014, was designated as Project Incharge, therefore, he is entitled to continue till the completion of the project.

Learned counsel for the respondent No.1 has opposed the writ petition submitting that the petitioner has rightly been relieved on completion of his period of contract.

Having heard to the learned counsel for the parties and 2 on perusal of the record, it is noticed that by the order dated 24.06.2013 the petitioner was appointed on contractual basis for a period of two years from the date of joining, with a further condition that the contract can be terminated by giving in writing one month's notice on either side. Since the petitioner's contract period of two years is over on 11.07.2015, therefore, the relieving order dated 9.07.2015 has been issued consequent to the expiry of the period of contract of employment. Counsel for the petitioner referring to Annexure P/4 has raised the ground that the appointment of the petitioner on contract was for a period of five years, but Annexure P-4 is a self serving letter sent by the petitioner to the respondent on 11.07.2014. The subsequent communication dated 14.08.2014 whereby the consolidated salary of the petitioner was increased, makes it clear that all other terms and conditions of the order of appointment were kept intact. There is no order of the respondent or no concluded contract between the parties on record indicating that the petitioner was appointed on contract basis for a period of five years. On the contrary, the

terms of the order of appointment dated 24.06.2013 are very clear which indicate the contract appointment for a period of two years.

The petitioner has also referred to the office order dated 06.03.2014 and raised a submission that since he has 3 been appointed as Project In-charge, therefore, he is entitled to continue till the completion of the project but the office order dated 6.3.2014 does not alter the original period of contract of two years and nothing is reflected in the order dated 06.03.2014 to come to the conclusion that the petitioner has any right to continue till the completion of the project.

In these circumstances, I am of the opinion that the writ petition filed by the petitioner is devoid of merit. The relieving order has rightly been passed by the respondent on completion of the period of contract by the petitioner.

The writ petition is accordingly dismissed.

C.C. as per rules.

(Prakash Shrivastav)
Judge "

2. The learned counsel for the respondents submits that against which a Writ Appeal was filed as WA.No.318/2015 which was disposed of by the Hon'ble High Court of Madhya Pradesh, at Indore by a DB vide order dated 11.8.2015 which we quote below:-

"W.A. No.318/2015
11.08.2015

Shri A. K. Sethi, learned Senior Counsel with Shri Awadesh Purohit, learned counsel for the appellant.

Shri Piyush Mathur, learned Senior Counsel with Shri Akash Vijayvargiya, learned counsel for the respondent.

Heard on the question of admission.

The appellant, was appointed on contract for a period of two years from the date of joining, with a further condition that the contract can be terminated by giving in writing one month's notice on either side.

Aggrieved by the order of relieving dated 9/07/2015 whereby the appellant has been relieved from the post of Chief Engineer Project w.e.f. 11/07/2015 on expiry of the period of contract, he challenged the relieving order by filing the writ petition no.4689/2015 on the ground that he was appointed on contract for a period of 5 years and he has been relieved before completion of the said five years.

To support the aforesaid, he placed reliance on the document(Annexure-P/4). He further submitted that the appellant vide order dated 6/03/2014 was designated as Project In-charge, therefore, he is entitled to continue till the completion of the project.

The learned writ court after considering the arguments 2 of the learned Senior Counsel for the parties dismissed the writ petition by holding that the appellant has no right to continue till the completion of the Project nor his appointment was for a period of 5 years. Relevant part of order dated 23/07/2015,

passed by the learned writ court in W.P. No.4689/2015 reads as under:-

23.07.2015

Having heard to the learned counsel for the parties and on perusal of the record, it is noticed that by the order dated 24.06.2013 the petitioner was appointed on contractual basis for a period of two years from the date of joining, with a further condition that the contract can be terminated by giving in writing one month's notice on either side. Since the petitioner's contract period of two years is over on 11.07.2015, therefore, the relieving order dated 9.07.2015 has been issued consequent to the expiry of the period of contract of employment. Counsel for the petitioner referring to Annexure P/4 has raised the ground that the appointment of the petitioner on contract was for a period of five years, but Annexure P-4 is a self serving letter sent by the petitioner to the respondent on 11.07.2014. The subsequent communication dated 14.08.2014 whereby the consolidated salary of the petitioner was increased, makes it clear that all other terms and conditions of the order of appointment were kept intact. There is no order of the respondent or no concluded contract between the parties on record indicating that the petitioner was appointed on contract basis for a period of five years. On the contrary, the terms of the order of appointment dated 24.06.2013 are very clear which indicate the contract appointment for a period of two years.

The petitioner has also referred to the office order dated 06.03.2014 and raised a submission that since he has been appointed as Project In-charge, therefore, he is entitled to continue till the completion of the project but the office

order dated 6.3.2014 does not alter the original period of contract of two years and nothing is reflected in the order dated 06.03.2014 to come to the conclusion that the petitioner has any right to continue till the completion of the project.

In these circumstances, I am of the opinion that the writ petition filed by the petitioner is devoid of merit. The relieving order has rightly been passed by the respondent on completion of the period of contract by the petitioner.

The writ petition is accordingly dismissed.

Learned Senior Counsel for the appellant has drawn our attention to the application for increment dated 11/07/2014(Annexure-P/4), order dated 14/08/2014 (Annexure-P/5) by which increment has been increased and order dated 6/03/2014 (Annexure-P/6) by which he has been designated as Project In-charge for the construction of permanent campus at Simrol under Phase 1A. Much reliance has been placed on Appendix – II of form of nomination to IRC Technical Committee for 2015-17. He submitted that as per Clause 9, the date of superannuation of appellant was 11/07/2018 and this document has been signed by the Director of IIT, Indore on 3/12/2014, thus, it cannot be said that he was appointed on contractual basis only for a period of 2 years.

On perusal of the record, we find that the appellant has been nominated by IRC Technical Committee for the year 2015-17. This form has been filled up by the appellant itself and the Director has appended his signature for nominating him on the said

committee. It does not mean that he has been appointed for a period of 5 years when the order of appointment is very clear and specific. The appellant was appointed on contractual basis for a period of 2 years and, therefore, he cannot claim his appointment for a period of 5 years when there is no renewal clause in the appointment order itself. Initially appointment was for a period of 2 years and, therefore, after completion of 2 years the appellant has been rightly relieved from the said post.

In absence of statute or conditions in the appointment order, no direction can be issued to the respondents to extend the contractual appointment of the appellant for a total period of 5 years i.e. upto 11/07/2018. The learned writ court after appreciating each and every point of order has rightly dismissed the writ petition. No case to interfere with the order passed by the learned writ court on 23/07/2015, as 5 prayed by the learned Senior Counsel for the appellant is made out.

The writ appeal filed by the appellant has no merit and is, accordingly, dismissed.

(P.K. Jaiswal)
Judge

(T.K.Kaushal)
Judge “

3. We find from the relief portion that it is almost the similar relief is being sought for. as apparently, after this the applicant was seeking an appointment in IIT Dharwad which the respondents were not pleased to grant him. We find from the reply of the respondents that

he was posted to IIT Dharwad is false and they would say that the Institute functions in accordance with the Institute of Technology Act, 1961 and the statutes framed therein. We do not think that the reply of the respondent is correct in this respect that there can be any arm of governance without this jurisdictional approach of justice delivery system. If that be so, it will destroy the 3rd arm of governance under constitution. But, still applicant had not chosen what is right for appointment in IIT Dharwad... The applicant was an employee of KSSIDC. If the applicant had chosen to seek an appointment in IIT Dharwad and the Institute was not pleased to appoint him, it may not be in the absence of any other specific reasoning to grant such a relief. Besides there is a question of misjoinder of causes of action as appointment to IIT Dharwad has nothing to do with appointment of IIT, Indore. Needless to say that the reliefs sought for and the cause of action are all in a mess. But, since he is appearing as a party in person we condone all these. But, other wise we hold that there is no matter to be agitated in this. OA is dismissed. No order as costs.

(PK.PRADHAN)
MEMBER(A)

(DR. K.B. SURESH)
MEMBER(J)

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Annexures referred to by the applicant in OA No.170/00460/2017

Annexure A1: True copy of the application dated 15.7.2017

Annexure A2: True copy of application dated 9.2.2017

Annexure A3: True copy of application dated 30.1.2017

Annexure A4: True copy of action status details dated 15.12.2016

Annexure A5: True copy of action status details dated 28.4.2016

Annexure A6: True copy of action status details dated 26.5.2016

Annexure A7: True copy of action status details dated 10.6.2016

Annexure A8: True copy of action status details dated 12.7.2016

Annexure A9: True copy of action status details dated 12.7.2016

Annexures referred in the reply

Annexure R1: True copy of judgement of Hon'ble High Court of Madhya Pradesh sitting at Indore vide WP.NO.4689/2015 dated 23.7.2015

Annexure R2: True copy of judgement of Hon'ble High Court of Madhya Pradesh sitting at Indore vide WA.NO.318/2015 dated 11.08.2015

Annexure R3: True copy of letter of IIT, Indore dated 14.3.2016

Annexure R4: True copy of letter of IIT, Indore dated 15.3.2016

Annexure R5: True copy of letter of M/o HRD, F.No.15-12/2015-TS-I dated 23.8.2017

Annexures referred in the rejoinder

Annexure RJ1: True copy of the application dated 7.3.2017

Annexure RJ2: True copy of letter of IIT, Indore dated 6.6.2014

Annexure RJ3: True copy of order of IIT, Indore dated 6.3.2014

Annexure RJ4: True copy of judgement of Hon'ble Supreme Court Appeal .NO.8216/2003 dated 9.10.2003

Annexure RJ5: True copy of CAT Act.

Annexure RJ6: True copy of IIT Dharwad advertisement

Annexure RJ7: True copy of Citizen's /Client's charter

Annexure RJ8: True copy of letter of IIT, Indore dated 20.8.2015

Annexure RJ9: True copy of letter of IIT, Indore dated 20.8.2015

Annexure RJ10: True copy of action status details dated 7.12.2016

Annexure RJ11: True copy of Request/Grievance status

Annexure RJ12: True copy of Grievance Registration No.PRSEC/E/2017/
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