

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH, KOLKATA

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M.A. 350/00145/2015
O.A. 350/00411/2015

Order dated: 02.09.2016

Present : Hon'ble Mr. Justice Vishnu Chandra Gupta, Judicial member
Hon'ble Ms. Jaya Das Gupta, Administrative Member

SANTANU DATTA

VS.

ICMR

For the Applicant : Mr. K. Sarkar, Counsel

For the Respondents : Mr. A.P. Deb, Counsel

ORDER (ORAL)

JUSTICE V.C. GUPTA, JM:

Heard Ld. Counsel for the applicant and Ld. Counsel for the respondents.

2. An application seeking condonation of delay has been moved by the applicant against which reply has also been filed. The grounds mentioned in the said M.A. has been duly considered. In view of the grounds taken in the M.A. delay is condoned.

3. By means of this O.A. the applicant has sought the following reliefs:

"8.i) to direct the respondents to cancel, withdraw and/or rescind the purported memorandum of termination of service of the applicant vide No. P-IVI-TVT(27) SP/2004 dated 29.06.2012; as contained in Annexure "A-6" herein;

ii) to direct the respondents to regularise the services of the applicant to the post of Data Entry Operator forthwith;

iii) to direct the respondents to re-engage the applicant under the Respondent No. 2 Institute as DEO until his regularisation to the said post;

iv) to direct the respondents to produce the entire records of the case before this Hon'ble Tribunal for adjudication of the issues involved herein;

v) And to pass such further or other order or orders as to this Hon'ble Tribunal may deem fit and proper."

4. The undisputed facts of the case are that the applicant was working as Data Entry Operator under the Project titled "Randomized Controlled Trial of the Bivalent killed whole cell Oral Cholera Vaccine in Eastern Kolkata, West Bengal, India (IVI-CVT)" under Dr. Dipika Sur, Scientist – F vide letter dated 29.06.2012. The applicant was informed that the said project will be terminated from 31st July, 2012. The services under the above mentioned project is no longer required with effect from 1st August, 2012.
5. Thereafter an advertisement was issued on 5.11.2013 to fill up the posts fully on temporary basis under another project in "HIV Sentinel Surveillance, Regional Institute, NACO" under the Dr. M.K. Saha, Scientist 'D', of Regional Institute NACO. The applicant applied for Data Entry Operator but he was not selected. Now the applicant has filed the present original application seeking the same benefits given in judgment dated 3.3.2016 rendered by this Tribunal in original application No. 1298/2013 annexed with rejoinder affidavit filed in M.A., by claiming the advantage of the direction contained in para 4 of the Judgement.
6. The question for consideration before this Tribunal is that if the applicant was already out of service on the date of pronouncement of the Judgement in original application No. 1298 of 2013 he would be entitled to the benefit of the Judgement?
7. During pendency of this Miscellaneous Application pleadings has already been completed in Original Application.



8. Hence heard the learned Counsel for both the sides and perused the records. Admittedly in this matter the applicant has sought the aforesaid reliefs after setting aside the order of 29.6.2012 by which he was informed that his services are not required on account of termination of the project and sought regularisation. The applicant thereafter applied for another project, subsequently in pursuance of the said advertisement, but he was not selected then he asked for regularisation of the service.

9. The Respondents argued, that the applicant was appointed against a temporary project. It is not the case of the applicant that he was continuing in a project of ICMR on the date of presentation of this O.A. and on that basis he sought absorption by adjusting him in any other project. The benefit which has been granted to the applicant of O.A. No. 1298 of 2016 order dated 3rd March, 2016 cannot be extended in the aforesaid circumstances.

10. Therefore, in view of the above fact we direct that the benefit of the judgment rendered by this Tribunal in original application No. 1298 of 2013 cannot be extended to this applicant and hence this petition lacks merit.

11. Accordingly, M.A. and O.A. is dismissed. No costs.

(Jaya Das Gupta)
Administrative Member

(Justice V.C. Gupta)
Judicial Member

drh