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CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

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Date of order : 20.12.2016

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

No. M.A. 350/00335/2014 PRASANTA MUKHERJEE
M.A. 350/00110/2016
O.A. 350/01138/2014 . VS. -

UNION OF INDIA & ORS. (M/o. HRD)

M.A. 350/00334/2014 ARANYA BASU ROY
M.A. 350/00052/2016
O.A. 350/01133/2014 - VS. -

UNION OF INDIA & ORS. (M/o. HRD)

M.A. 350/00336/2014 ANUPAM BAGCHI
M.A. 350/00111/2016
O.A. 350/01139/2014 - VS. -

UNION OF INDIA & ORS. (M/o. HRD)

For the Applicants : *Mr. I.N. Mitra, Counsel*
(in O.A. No. 350/01136/2014)
Mr. B. Nandy, Counsel
(in O.A. No. 350/01133/2014)
(in O.A. 350/01139/2014)

For the Respondents : *Mr. R. Mantha, Counsel*
(appearing for NIT)

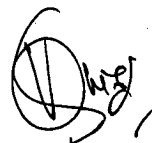
Mr. A.K. Gupta, Counsel
(appearing for AICTE)

Mr. J.R. Das, Counsel
(appearing for Director, IAMR)

ORDER (Oral)

Per Mr. Justice Vishnu Chandra Gupta, Judicial Member:

No. O.A. 350/01138/2014:



Heard the Ld. Counsel appearing for the applicant and Ld. Counsel appearing for NIT, Durgapur and the Ld. Counsel appearing for AICTE.

2. The controversy reduced to only one point in view of the submissions made by Ld. Counsel for AICTE. The Ld. Counsel for All India Council for Technical Education (AICTE) has categorically submitted that three posts were sanctioned in which one post is of Personal Assistant (PA). Prasanta Mukherjee is the person, who has been appointed against the sanctioned post by giving the nomenclature of Clerk-cum-Typist. It is not in dispute that budget was allocated to make payment for the post of Personal Assistant to disburse the salary to the person. Ld. Counsel for NIT, Durgapur has categorically submitted before this Tribunal that the respondents are ready to absorb Prasanta Mukherjee on the post of Clerk-cum-Typist and will pay the salary from their own funds.

3. The Ld. Counsel for the AICTE has failed to bring on record the duties of a Personal Assistant which he has to perform while creating the post of Personal Assistant by the AICTE. The Ld. Counsel for the AICTE has miserably failed to bring on record any document which reveals the duties and responsibilities entrusted to a Personal Assistant. It is true that Shri Prasanta Mukherjee has been appointed with a nomenclature of Clerk-cum-Typist and not as a Personal Assistant. It is also not in dispute that the pay scale which the applicant was allowed was similar to the pay scale which has been approved for the post of Personal Assistant by AICTE. So in the absence of any rule or document of duty to the post of Personal Assistant we are of the view that the stand taken by the AICTE that Shri Prasanta Mukherjee cannot be allowed to be paid any amount of salary by the AICTE for the post of Clerk-cum-Typist is not correct.

4. In view of the above, we are of the firm view that Shri Prasanta



Mukherejee, who has been appointed as Clerk-cum-Typist by the NIT, Durgapur in pursuance of the post created by AICTE of Personal Assistant cannot be faulted with and AICTE cannot escape from their liability to make payment to Shri Prasanta Mukherjee, the applicant, in this case.

5. The Ld. Counsel for NIT, Durgapur has categorically stated before this Court that they have resolved to absorb Shri Prasanta Mukherjee and two other applicants namely, Shri Aranya Basu Roy and Shri Anupam Bagchi subject to withdrawal of their O.A.s in terms of resolution dated 8.7.2016, a copy of which reads as under:-

" **NATIONAL INSTITUTE OF TECHNOLOGY, DURGAPUR**
MAHATMA GANDHI AVENUE, DURGAPUR – 713 209, INDIA

No. NITD/Estt./Nodal Centre/2016

Date: July 8th, 2016

NOTE SHEET

Ref. No. 33-2/2013-TS-II, MHRD, GOI, dated 09.12.2013.

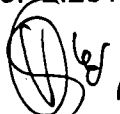
Sub: **Absorption/adjustment/redeployment for the staff of Nodal Centre.**

Enclosed please find the letter No. 33-2/2013-TS-II dated 09.12.2013 issued by the Director (TE), MHRD, Govt. of India that in connection with an MoU as has been signed between All India Council for Technical Education (AICTE) and Institute of Applied Manpower Research (IAMR) for a new scheme namely National Information System on Technical Research (NISTECHR) with effect from 1st April, 2013 in place of existing Scheme of National Technical Manpower Information System (NTMIS).

On the Basis of said MoU, the erstwhile NTM'S staff members have made several representations to MHRD with request to look into the matter of their continuation of the employment in the new scheme (NISTECHR).

A committee was constituted to look into the matter of the employees of Nodal Centres and on the basis of the recommendations of the said committee, MHRD, Govt. of India requested the Directors of the concerned Institutions to assess the possibility of redeploying the erstwhile NTMIS staff members against existing vacancies of the Institute vide their letter No. 33-2/2013-TS-II dated 09.12.2013.

On the basis of the MHRD letter dated 9.12.2013, the Board of



Governors in its 30th meeting held on 24.1.2014 vide item No. 30.11 had approved for redeployment/absorption of NTMIS staff members of NIT Durgapur.

An internal committee of the Institute vide order No. NITD/Estab/3718 dated 31.12.2013 had been constituted with four members to look into the details (name, designation, date of birth, date of joining, educational qualification & scale of pay) regarding redeployment / absorption of NTMIS staff members of NIT Durgapur. The Chairman of the said committee had submitted its assessment report on 23.1.2014 to the Registrar of the Institute.

In connection with relaxation of age for recruitment of certain categories of employees who are already engaged at the Institute through contract/NTMIS, the Board of Governors in its 42nd meeting held on 25.5.2016 vide item No. 42.06 has recommended that the individual of erstwhile NTMIS staff may be absorbed as per their qualification and subject to existing vacancies as has been done in other NITs.

Considering MHRD letter No. 33-2/2013-TS-II dated 09.12.2013, NIT Suranthkal has adjusted/re-deployed two non-teaching staff in NITK, Suranthkal w.e.f. 2.3.2014, NIT Srinagar has also made similar adjustment as per the instructions of Government of India vide MHRD letter No. ibid and thusque has also been approved by the Chairman BOG. In connection with absorption of NTMIS staff members to the host Institute, MHRD, Govt. of India vide Order No. 33-2/2013-TS-II dated 20.5.2016 placed the Order for absorption against suitable posts based on their educational qualification and experience as recommended by the Bhat Committee.

Considering letter No. 33-2/2013-TS-II dated 09.12.2013 issued by the MHRD, Govt. of India Order No. 33-2/2013-TS-II dated 20.5.2016 issued by the same Ministry that absorption be made **against suitable post based on their educational qualification and experience as recommended by the Bhat Committee.** Hence, copy of existing vacancies in post of Non-Teaching cadre is enclosed herewith.

However in regard to absorption of the employees of Nodal Centre to NIT Durgapur, a discussion between Prof. A. Gangopadhyay and Mr. Rajasekhar Mantha, the legal adviser of the Institute was held and as per legal opinion, three person of Nodal Centre of NIT, Durgapur have to withdraw their case from CAT to avoid AICTE from meddling in the matter any further.

On the basis of the fact cited above, it is recommended for the absorption of three staff member of Nodal Centre to suitable posts in existing vacancies of the Institute considering MHRD letter No. 33-2/2013-TS-II dated 9.12.2013 and Order No. 33-2/2013-TS-II dated 20.05.2016.

Submitted for kind perusal and consideration please.

(Junior Assistant)"



6. In view of the above undertaking given by the Ld. Counsel for NIT, Durgapur that NIT, Durgapur will pay the salary after absorption to all the three persons from their own fund, we find that there remains nothing to be decided in this case now.

7. Accordingly, the O.A. is disposed of.

8. In view of the resolution and undertaking given by the Ld. Counsel for NIT Durgapur, the Ld. Counsel for the applicant requested to withdraw this Original Application. Hence, the Original Application is dismissed as ~~withdraw~~ in view of the aforesaid observation made by us. There shall be no order as to costs.

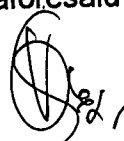
Nos. O.A. 350/01133/2014 & O.A. 350/01139/2014:

We have heard the Ld. Counsel for the parties and perused the records.

2. Ld. Counsel for AICTE has categorically admitted that these two posts on which the applicants, Shri Aranya Basu Roy and Shri Anupam Bagchi, were recommended by the AICTE and have been allocated budget of payment of salary from time to time. The Ld. Counsel for NIT, Durgapur categorically stated before us that they have resolved to absorb the applicants by adopting resolution dated 8.7.2016 (a copy of which is extracted hereinabove, subject to withdrawal of the O.A.

3. The Ld. Counsel for NIT, Durgapur also undertook that NIT, Durgapur shall pay the salary after absorption of these two applicants from their own funds.

4. In view of the aforesaid undertaking, the Ld. Counsel for the applicants is permitted to withdraw the O.A. with the aforesaid observation.



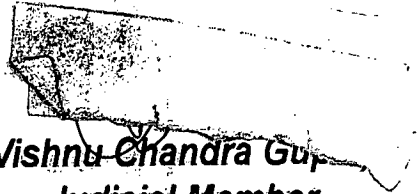
Nos. M.A. 350/00335/2014, M.A. 350/00110/2016, M.A. 350/00334/2014,

M.A. 350/00052/2016, M.A. 350/00336/2014 & M.A. 350/01139/2014:

All these M.A.s, which have been moved, need not be disposed of separately as they have become infructuous in view of the aforesaid order passed by us today.



(Jaya Das Gupta)
Administrative Member



(Vishnu Chandra Gupta)
Judicial Member

SP