

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00560-00575/2017

DATED THIS THE 14TH DAY OF NOVEMBER, 2018

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

HON'BLE SHRI C V SANKAR, MEMBER (A)

1. N.K. Prem Kumar
S/o Sri N. Karunanithi
Aged about 41 years,
Working as UDC
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

2. Mahendra N Bhute
S/o Sri N.T. Bhute
Aged about 47 years,
Working as Exhibition Assistant "B"
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

3. Prasanta Kumar Biswal
S/o Sri Prafulla Biswal
Aged about 35 years,
Working as Education Assistant "B"
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

4. P.M. Shaneesh Kumar
S/o Sri P.M. Gopalan
Aged about 38 years,
Working as Driver grade-II

Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

5. Smt B.U. Manjula
D/o Sri L. Ugraiah
Aged about 38 years,
Working as UDC
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

6. K. Hari Prasad
S/o Sri K. Sanjeeva Moolya
Aged about 32 years,
Working as Technician “B” (Fitter)
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

7. G. Muthu Kumar
S/o Sri T. Gopalan
Aged about 35 years,
Working as Technician “B” (Carpenter)
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

8. Chandra Sekhar Prasad
S/o Sri A. Prasad
Aged about 38 years,
Working as Education Assistant “B”
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

9. M. Sudalaimani
S/o Sri Muthu Krishnan

Aged about 31 years,
Working as Technician "B" (Carpenter)
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

10. Biswajit Majumdar
S/o Late B. Majumdar
Aged about 42 years,
Working as Driver Grade-II
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

11. Govind Ram Sharma
S/o Sri B.P. Sharma
Aged about 36 years,
Working as Technician "B" (Painter)
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

12. Savarigire Selvan
S/o Late K. Sankara Subbu
Aged about 37 years,
Working as Technician "B" (Electronics)
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

13. P. Mahesh Kumar Naik
S/o Sri P. Rathnappa Naik
Aged about 31 years,
Working as Technical Assistant "B"
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

14. Siddaling
S/o Sri Nilakanta Rao
Aged about 35 years,
Working as Technician “B” (Electrical)
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

15. R. Arumugam
S/o Sri K. Raman
Aged about 42 years
Working as Technician “B” (Fitter)
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Kasturba Road,
Bangalore – 560 001

16. Md. Abdul Khaleeq
S/o Sri Md. Fiyazudin
Aged about 36 years
Working as Technician “B” (Carpenter)
Office of Visvesvarya Industrial &
Technological Museum
National Council of Science Museum
Gulbarga Road,
Gulbarga – 585 101

.....Applicants

(By Advocate Shri A.R. Holla)

Vs.

1. Controller of Administration
Visvesvarya Industrial &
Technological Museum
National Council of Science Museums
Ministry of Culture,
Government of India,
Kasturba Road,
Bangalore – 560 001

2. Director General
Head Quarter
National Council of Science Museums
Ministry of Culture,
Government of India,

Block GN, Sector-V
Bidhan Nagar
Kolkatta 700 091
West Bengal

3. Union of India
Through the Secretary,
Ministry of Culture,
Room No. 501, C Wing
Shastri Bhawan
New Delhi – 110 015

.....Respondents

(By M/s Hegde Associates, Counsel for Respondent No. 1&2)

ORDER (ORAL)

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

Heard. The applicants claim that the respondents issued a notification or an advertisement for selection, held a selection and selected them. They were first appointed as adhoc employees which later on matured into contract employment. There appears to be a time gap between their contract employment and their regularization which was apparently regularized by granting them leave during the interregnum period. Therefore they have now become regular employees with continuity in service.

2. At this point of time, an audit party objected to it. In terms of the audit party's objection, orders Annexure-A60 and A61 was issued directing them to give an undertaking that they will not be granted continuity in service and a suitable undertaking will have to be given by them and only then the 7th CPC payscale can be granted to them. There is a limit to powers under governance. Once they have taken a view, a legitimate expectation arises in favour of the employees. Having condoned the gap between contract employment and regularization as part of leave which was earned by them through service, a

legitimate expectation arises in their favour. Contra, a promissory estoppel arises as against the government authority not to undo that whether or not audit raises an objection because after having given a promise a separate step was extracted from them. Therefore that audit objection may not be valid for the simple reason that it was within the discretion of the appointing authority to grant such condonation.

3. But then it may not lie within them to deny the 7th CPC pay scales to them because as it emanates from a still higher authority and the persons who have issued Annexure-A60 and A61 are subordinate authorities. They cannot be an obstacle in the way of implementation of the Government order. They have no power to do so. Annexure-A60 and A61 will not lie under law, it is hereby quashed. The applicants are eligible to normal regularization benefit.

4. The OA is allowed. Benefits to be extended within two months next. No order as to costs.

(C V SANKAR)
MEMBER (A)

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

/ksk/

Annexures referred to by the applicant in OA No.170/00560-00575/2017

Annexure-A1: Copy of the notification No. 5/2003

Annexure-A2: Copy of the letter dated 22.11.2004
Annexure-A3: Copy of the letter dated 08.11.2005
Annexure-A4: Copy of the letter dated 09.06.2009
Annexure-A5: Copy of the letter dated 26.06.2006
Annexure-A6: Copy of the letter dated 08.12.2006
Annexure-A7: Copy of the letter dated 23.02.2007
Annexure-A8: Copy of the letter dated 15.03.2007
Annexure-A9: Copy of the letter dated 17.03.2007
Annexure-A10: Copy of the letter dated 22.11.2004
Annexure-A11: Copy of the letter dated 28.11.2005
Annexure-A12: Copy of the letter dated 07.12.2005
Annexure-A13: Copy of the letter dated 20.06.2006
Annexure-A14: Copy of the letter dated 20.07.2006
Annexure-A15: Copy of the letter dated 30.08.2008
Annexure-A16: Copy of the letter dated 13.01.2009
Annexure-A17: Copy of the letter dated 26.09.2006
Annexure-A18: Copy of the letter dated 13.01.2009
Annexure-A19: Copy of the letter dated 20.11.2006
Annexure-A20: Copy of the letter dated 13.01.2009
Annexure-A21: Copy of the letter dated 18.07.2006
Annexure-A22: Copy of the letter dated 27.06.2007
Annexure-A23: Copy of the letter dated 28.06.2008
Annexure-A24: Copy of the letter dated 06.04.2009
Annexure-A25: Copy of the letter dated 19.2.2008
Annexure-A26: Copy of the letter dated 11.08.2008
Annexure-A27: Copy of the letter dated 27.11.2006
Annexure-A28: Copy of the letter dated 05.12.2007
Annexure-A29: Copy of the letter dated 24.06.2008
Annexure-A30: Copy of the letter dated 25.06.2008
Annexure-A31: Copy of the letter dated 07.06.2007
Annexure-A32: Copy of the letter dated 19.06.2008
Annexure-A33: Copy of the letter dated 20.08.2008
Annexure-A34: Copy of the letter dated 13.01.2009
Annexure-A35: Copy of the letter dated 02.09.2004
Annexure-A36: Copy of the letter dated 05.09.2005
Annexure-A37: Copy of the letter dated 16.09.2006
Annexure-A38: Copy of the letter dated 24.08.2006
Annexure-A39: Copy of the letter dated 22.03.2007
Annexure-A40: Copy of the letter dated 19.02.2008
Annexure-A41: Copy of the letter dated 13.01.2009
Annexure-A42: Copy of the letter dated 14.11.2006
Annexure-A43: Copy of the letter dated 16.10.2006
Annexure-A44: Copy of the letter dated 26.10.2007
Annexure-A45: Copy of the letter dated 03.11.2008
Annexure-A46: Copy of the letter dated 31.01.2009
Annexure-A47: Copy of the letter dated 21.02.2006
Annexure-A48: Copy of the letter dated 24.08.2006
Annexure-A49: Copy of the letter dated 17.03.2007

Annexure-A50: Copy of the letter dated 05.03.2007
Annexure-A51: Copy of the letter dated 27.03.2008
Annexure-A52: Copy of the letter dated 24.06.2008
Annexure-A53: Copy of the letter dated 20.07.2005
Annexure-A54: Copy of the letter dated 09.11.2006
Annexure-A55: Copy of the letter dated 11.10.2007
Annexure-A56: Copy of the letter dated 13.01.2009
Annexure-A57: Copy of the letter dated 01.03.2009
Annexure-A58: Copy of the letter dated 20.05.2009
Annexure-A59: Copy of the letter dated 01.07.2010
Annexure-A60: Copy of the letter dated 23.06.2017
Annexure-A61: Copy of the impugned order dated 24.06.2017
Annexure-A62: Copy of the service particulars as adhoc/contract
Annexure-A63: Copy of the service particulars as contract
Annexure-A64: Copy of the letter dated 26.03.2001
Annexure-A65: Copy of the representations dated 03.07.2017, 06.07.2017, 29.06.2017, 03.10.2017, 16.07.2017, 05.08.2017 and 04.07.2017
Annexure-A66: Copy of the extract of CCS Rules 1964 & 1965
Annexure-A67: Copy of the DoPT OM dated 09.08.1999
Annexure-A68: Copy of the DoPT OM dated 10.02.2000
Annexure-A69: Copy of the DoPT OM dated 23.07.2001
Annexure-A70: Copy of the DoPT OM dated 03.04.2013

Annexures with rejoinder

Annexure-A71: Copy of the communication dated 17.06.2017
