

**Central Administrative Tribunal
Principal Bench**

OA No.1226/2019

New Delhi, this the 16th day of April, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Sh. Pradeep Kumar, Member (A)**

Abhay Kumar Pandey
Designation: Ex. National Procurement Specialist
Group 'A', Age 40
S/o Sh. N.D. Pandey
R/o Matri Chhaya
Road No.14, East Ashok Nagar
Kankarbagh, Patna
Bihar-800020. ..Applicant

(By: Applicant in person)

Vs.

1. National AIDS Control Organization (NACO)
(through its Secretary)
6th & 9th Floor, Chanderlok Building
36 Janpath, New Delhi-110001.
2. Union of India(through its Secretary)
Ministry of Health & Family
Welfare, Nirman Bhawan
New Delhi-110001. ...Respondents

(By Advocate: Shri Shailendra Tiwari)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The facts of this OA reveal as to how the National AIDS Control Organisation has become a victim of harassment by the applicant herein. It also provides an

example as to how the Right to Information Act, 2005 which was enacted with the purpose of ensuring transparency in public offices has been put to gross misuse, just on account of the fancy of the applicant herein.

2. The applicant was engaged as National Procurement Specialist by the respondent organisation on contractual basis on 13.06.2013 for a period of one year. After the contract ended on 31.03.2014, it was extended up to 31.03.2016 in different spells. In the context of extension of such engagements, the employees were required to submit what is known as "Justification for Continuation", well in advance. A request in this behalf was made on 12.01.2016 by the respondents to the applicant. On receipt of the same, the applicant, however, addressed a letter through email dated 15.01.2016 stating that he is not interested in continuing in the service of the respondents and requested that his name may be removed from the list. Acting on the same, the respondents passed an order dated 10.02.2016 accepting request of the applicant and terminating the

contract in terms of Clause 8 of the agreement dated 15.09.2015. It was also observed that the letter may be treated as a notice and that he shall stand relieved on 10.03.2016.

3. The applicant seems to have initiated various proceedings before the different authorities such as the Information Commission, in this behalf. He has also procured a copy of a note sheet wherein his request made on 15.01.2016 was processed. By pointing out that the something adverse against him was mentioned therein, the applicant went on raising one objection or the other. It was alleged that the order dated 10.02.2016 is contrary to the very note-sheet and that the allegations made against him and all other aspects need to be investigated. All this culminated in a communication dated 16.01.2019 through which the respondents informed the applicant that the matter can be treated as closed.

4. This OA is filed challenging the order dated 10.02.2016 and communication dated 16.01.2019. The applicant further prays for being heard against the

charges made as regards his performance by constituting a committee and to direct the committee to find out the cause of hiding various aspects raised by him.

5. We heard the applicant who argued the case in person and Shri Shailender Tiwari, learned counsel for the respondents.

6. The contract of the applicant was for a period of one year. That was extended from time to time, up to 31.03.2016. It appears that a practice was evolved in the respondents' organization seeking the "Justification for Extension" from the employees so that their performance can be evaluated and their inclination can be accepted. This was furnished to him in the month of January 2016. It appears that the applicant was not inclined to furnish such a justification and according to him, it is not provided for under the relevant provisions of law. On 15.01.2015, he addressed the following letter through email:-

"Respected Madam,

Kindly remove my name from the list. I am no more interested to continuing here.

You may keep the justification for the post on the basis of Project Appraisal Document (agreement with the World Bank).

As an individual, I am not interested in continuing in the present scenario.”

7. He made it very clear that he does not intend to continue in the organisation and his name may be removed from the list. He has also mentioned that he is not inclined to continue in the organisation in the present scenario. This was taken note of and the matter was processed by the concerned authority. On 10.02.2016, the following communication was given:-

“This has reference to your email dated 15th Jan 2016 regarding your unwillingness to continue in NACO. Your request has been considered and the Competent Authority has approved to rescind the Contractual Service Agreement dated 15th June 2015 signed between you and NACO as per clause 8 of the said agreement read with the Department’s office order No.A11014/2/2010-NACO(HR) dated 15.9.2015.

2. This letter may be treated as a notice of 30 days. You will be relieved the services of NACO on 10th March 2016 (afternoon).”

8. When the engagement of the applicant itself was for one year, any continuation beyond that would be in the discretion of the organisation. Assuming that the

applicant got any right on account of the subsequent extensions, the letter dated 15.01.2016 has put an end to the same. It was not even alleged that there was any coercion or compulsion leading to the addressing of letter dated 15.01.2015. In that letter, he did not mention anything except his unwillingness to continue in the organisation.

9. It is rather unfortunate and strange that the applicant has virtually taken the respondent organisation for a ride by dragging it to one authority or the other.

10. For all practical purposes, he acted as a super authority upon the respondent and made them to answer all irrelevant aspects. He procured the note-sheet pertaining to the processing of his letter dated 15.01.2016. The first sentence of the note sheet reads as under:-

“PUC is the OM from Director (Finance) regarding non-performance of Sh. Abhay Pandey and for taking necessary action as per the terms and conditions of his contract...”

11. The applicant picked up the first sentence of the note-sheet and went on harassing the respondents by pointing out that the charges were framed against him and they were baseless. He has also insisted for appointment of a committee for looking into those charges.

12. When not a single charge was communicated to him nor any displeasure as to his functioning was mentioned in the order dated 10.02.2016, it is just understandable as to how the applicant can feel aggrieved. Simply because the applicant has some spare time at his disposal and has mastered in invoking the various provisions of the Right to Information Act, the respondents cannot be subjected to unlimited harassment.

13. On 16.01.2019, the respondents have just summed up the various developments that have taken place ever since the applicant expressed his unwillingness to continue in the organisation. Nothing objectionable or illegal, is contained therein.

14. We do not find any merit in the OA it is accordingly dismissed. There shall be no order as to costs.

(Pradeep Kumar)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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