

**Central Administrative Tribunal
Madras Bench**

OA/310/01878/2014

Dated the 16th day of July Two Thousand Nineteen

P R E S E N T

**Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)**

1. K.Dinesh
2. C.Senthilkumar
3. N.Srividhya
4. K.M.Kothai
5. E.Monika
6. M.A.Ezhilnesa Suganthi
7. G.Lenin .. Applicants

By Advocate **M/s.V.Vijay Shankar**

Vs.

1. The Union of India,
rep by Director General,
National Informatics Center,
(M/o Communication & Information Technology),
Department of Information Technology,
A Block, CGO Complex, Lodhi Road,
New Delhi.
2. The Deputy Director General cum Head OTC,
NIC, STPI Campus,
No.5, 1st floor, Rajivi Gandhi Salai,
Taramani, Chennai-113. .. Respondents

By Advocate **Mr.J.Vasu**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“...to call for the proceedings of the 2nd respondent in its No.2(12)/2014-OTC/CHN dated 30.6.2014 and quash the same in so far as the applicants are concerned and direct the respondents to reinstate the applicants herein as Research Scientist Grade-I and consequently regularize their service as Research Scientist Grade-I and pass such other order or orders as may be deemed fit and thus render justice.”

2. The case of the applicants is that the applicants were appointed by the respondents as Research Scientist (RS) Grade I and II and Junior Research Fellowship (JRF) in the Open Technology Centre (OTC) of the respondents. The said appointment was as per notification on 25.6.07. About 22 persons were recruited in the OTC established in 2008. Applicants 1 and 2 joined as RS Grade I in 2008 and applicants 6 and 7 joined as RS Grade I in the year 2011 directly. Applicants 3, 4 and 5 were initially appointed as JRF in 2008 and thereafter they were appointed as RS Grade I in 2011 when the second batch was recruited. According to them, all the applicants were engaged in the year 2008 onwards. Though the appointment was projected as contract employment, their services were continuous and without any break. The applicants raised an issue of regularization and the 2nd respondent had suddenly terminated the services w.e.f. 30.6.14. When the appointments were terminated, the 2nd respondent had assured that they will consider them and take back. Believing the words of the 2nd respondent, the applicants were waiting for the call.

But to their surprise, the respondents went ahead to fill up the vacancies with another selection. But the name of the post was formally changed and they had employed the workers under a contractor i.e. 3rd party. Then the applicants came to know that the respondents are not going to engage them and hence they filed OA to quash the order dated 30.6.14 terminating them.

3. The respondents appeared and filed a detailed reply contending that OTC was an initiative of NIC under Information and Communication Technology (ICT). One pilot project by name OTC was started and the project was funded by Department of Information & Technology. They had hired manpower initially as per guidelines of the Department of Science and Technology. The following awards were made:

“Junior Research Fellowship Award and R.S. Grade I & II.”

The notification was published in 2007. Interviews were conducted and 29 awardees were hired in 2008. Initially, appointment was for a period of 2 years extendable annually subject to the continuation of project. A second batch of recruits were selected in March 2012. According to the respondents, they had mentioned all the conditions of employment in the notification (produced as Annexure A2) and the appointees were taken for the particular project of OTC. The department extended the project only for 3 months ie. upto 30.6.14. The applicants were intimated regarding the same on 05.5.2014 itself. The respondents had produced the appointment orders of the applicants and the letter intimating the discontinuance of the project as Annexure R4 & R9. They had also produced an undertaking given by

the applicants when they joined the OTC. So, according to them, the applicants were hired only for the purpose of a project and when the project was completed, they were terminated. The applicants have no rights for regularization and re-employment. So, the OA is liable to be dismissed.

4. We have anxiously heard both sides and perused the pleadings. The counsel for the applicants would contend that the applicants were continuously in employment from 2008 till they were terminated in the year 2014 and they are entitled to get regularization. According to them, they were appointed on a scale of pay i.e. RS Grade I pay was fixed at Rs.15,600/- with Grade Pay Rs.5400/- in the Pay Band-III. Due to the termination, the applicants cannot get any other job as their age has advanced. It is illegal to terminate them. There is no change of project as stated by the respondents. The respondents had merely changed the nomenclature and they are continuing with the same work. Eventhough sufficient work was available, the respondents had terminated the applicants and denied the genuine claim of the applicants seeking regularization. According to them, they were selected after a process of selection after giving wide publicity. The applicants had the required qualification for holding the post of RS and they are not people appointed through back door. Immediately after terminating employment, the respondents had recruited other people through a 3rd party contractor. The applicants were terminated only because they sought for a regularization.

5. On the other hand, counsel for the respondents would contend that even the

notification issued for recruitment had clearly stated the conditions of employment and according to them, they had clearly stated that “those positions are created against specific projects. They had also specifically mentioned in Annexure A2 that hired Research Staff are not to be treated as employees of NIC and the deployment of such staff at the time of termination of the project will not be the concern/responsibility of NIC.” So, according to the respondents, the applicants were engaged only for the projects of OTC and they have no right to continue under the respondents and they are not entitled to get any regularization. The project was ended and the applicants were terminated.

6. The counsel for the applicant mainly rely on the decision of the Hon'ble Supreme Court in ***State of H.P. v. Suresh Kumar Verma and Another (1996) 7 SCC 562***. On a perusal of the said judgment, it can be seen that the said judgment was pronounced in the case of re-employment of Assistant Development Officers appointed on daily wages dehors the recruitment rules. Therefore, services were terminated due to completion of the project in which they were engaged. The Hon'ble Supreme Court in that case had held that appointment made in the project on daily wages is against the rules and if their services are terminated under completion of project, the government can consider re-engagement if the government can relax the age limit for regular appointment. It can be seen that the said judgment has no application in this case. Here the applicants were appointed on a contract basis for a particular project. If we go through Annexure A2 notification, it can be seen that the

OTC project was initiated by NIC in the year 2008 and the manpower was hired as per notification dated 25.6.07. The respondents had taken RS Grade I, RS Grade II and JRF on a project base. If we go through the guidelines published alongwith the notification, it can be seen that the above decision was created against specific project. The posts were advertised and the candidates were interviewed and the suitable candidates are chosen for a specific period of the project. As per the norms laid down by the department of Science and Technology, the RS posts will be for 5 years and they may be renewed later. The applicants can get the benefits of Provident Fund and CGHS alone. It is also clearly mentioned that NIC reserves the right to terminate the services of the JRF and RS Grade I and Grade II at any stage. It is specifically mentioned that the projects are funded projects and the hired Research Staff are not to be treated as employees of NIC. If we go through the undertakings given by the various applicants, it can be seen that the award is subject to the terms and conditions laid down by the Department of Science and Technology and the NIC is provided with rights to cancel or withdraw the award at any time. It is also mentioned that the duration of initial appointment will be 2 years. Annexure R4 produced by the respondents would show that on 05.5.14 itself they had intimated the applicants that the department has extended the project only for a period of 3 months from 01.4.2014 to 30.6.2014 and no further extension will be granted. The applicants were also directed to submit “no due certificate” atleast one week before the last working day of 30.6.2014. So, from the above records, it can be clearly seen that the

applicants were appointed only for the purpose of a specific project and on completion of the said project, they were terminated by the respondents. The applicants had joined the service with an undertaking and they know that they were liable to be terminated as and when the project is completed. So, it is clear that the applicants are not entitled to get any regularization or other benefits from the appointment given to them. In the absence of any rights, the applicants had to be terminated on the expiry of the term of contract entered by them. In *Rajendra v. State of Rajasthan (1999) 2 SCC 317* it is held that “When the posts temporarily created for fulfilling the needs of a particular project or scheme limited in its duration come to an end on account of the need for the project itself having come to an end either because the project was fulfilled or had to be abandoned wholly or partially for want of funds, the employer cannot by a writ of mandamus be directed to continue employing such employees as have been dislodged because such a direction would amount to requisition for creation to posts though not required by the employer and funding such posts though the employer did not have the funds available for the purpose.” Here the respondents have terminated the appointment on 30.6.14 on completion of the project. There is no merit in the contention raised by the counsel for the applicants in this case. The decision cited by the counsel for the applicants cannot be applied in this case as the facts and circumstances are not similar. So, we find that the applicants have not succeeded showing vested rights in

getting the employment regularized under the respondents. So, OA lacks merits and is liable to be dismissed.

7. Accordingly, OA is dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

16.07.2019

/G/