

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO.353 of 2013

Dated this Thursday, the 13th day of June, 2019

CORAM : DR. BHAGWAN SAHAI, MEMBER (ADMINISTRATIVE)
R.N.SINGH, MEMBER (JUDICIAL)

1. Prashant More, S/o Jagannath More,
Flat No.202, Kearinath Towers,
Plot No.E-9, Sector – 3, Belpada,
Kharghar, Navi Mumbai 410 210.
Working as Technical Officer at C-DAC Mumbai.
2. Prakash Pimpale, S/o Balaji Pimpale,
Flat No.302, Bapuji Sadan, Sector 3, Belpada,
Kharghar, Navi Mumbai 410 210.
Working as Technical Officer at C-DAC Mumbai.
3. Mr. Anupam Saxena,
213/5, Chha – Chhi Kuan Nr. K.G.M.C.
Lucknow 226 003, Flat No.302, A-Wing,
Jay Aashiyana Building, I.C. Colony, Boriwali West,
Mumbai 400 103.
Working as Technical Officer at C-DAC Mumbai.
4. Deleted.
5. Mr. Uttam Kumawat Ram Bhavan,
Harshaiji Ka Katla, Mohalla Kumawat Town,
Sawai Madhopur, Rajasthan 322 021.
Working as Technical Officer at C-DAC Mumbai.
6. Deleted. ... Applicants
(By Advocate Shri Rishi Ashok)

VERSUS

1. Union of India,
(Represented by Secretary to the Government of India),
Ministry of Communication & Information Technology,
Electronics Niketan, 6, CGO Complex, Lodhi Road,
New Delhi 110 003.
2. Director General
Centre for Development of Advanced Computing (CDAC),
University of Pune Campus Ganeshkhind,
Pune 411 007.

3. Executive Director,
Centre for Development of Advanced Computing (CDAC),
Gulmohar Cross Road No.9, Juhu,
Mumbai 400 049. ... Respondents
(By Advocate Shri A.M. Sethna)

ORAL ORDER

Per : R.N.Singh, Member (Judicial)

Heard the learned counsels for the parties.

2. The four applicants have approached this Tribunal by this OA, filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs :-

"8(I) Call for records & proceedings leading to Office Memorandum 13/12 (ref: C-DAC: Corp-HRD: 2012) dated 28.09.2012; read with Office Memorandum 16/12 (ref: C-DAC: Corp-HRD: 2012) dated 30.09.2012; read with Office Memorandum 18/12 (ref: C-DAC: Corp-HRD: 2012) dated 09.10.2012; read with Office Memorandum 19/12 (ref: C-DAC: Corp-HRD: 2012) dated 09.10.2012 marked and annexed herein as Annexure A1; and after going through the merits of the case the hon'ble Court be pleased to quash and aside Annexure A1 as being arbitrary, illegal and violative of Articles 14, 16, 19 and 21 of the Constitution.

8(II). Call for the records leading to Letter No.C-DAC/HRD/GBC-Rev/2012 dated February 07, 2013 to First Applicant; Letter No.C-DAC/HRD/GBC-Rev/2012 dated February 07, 2013 to Second Applicant; Letter No.C-DAC/HRD/GBC-Rev/2012 dated February 07, 2013 to Third Applicant; Letter No.C-DAC/HRD/GBC-Rev/2012 dated February 07, 2013 to Fourth Applicant; Letter No.C-DAC/HRD/GBC-Rev/2012 dated February 07, 2013 to Fifth Applicant; Letter No.C-DAC/HRD/GBC-Rev/2012 dated 07, 2013 to Sixth Applicant marked and annexed herein as Annexure A2 and after examining the merit be pleased to quash and set aside Annexure A2 as being arbitrary, illegal and violative of byelaws of Society as well as Articles 14, 16, 19 and 21 of the Constitution.

8(III). Be pleased to direct the respondents to adhere to the Bye-Laws and implement the Bye-Laws properly.

8(IV). The Hon'ble Court be pleased to protect the

employment of the applicants and the respondents be directed not to terminate their services without following the due process of law and without the permission of the Hon'ble Court.

8(V). Be pleased to direct the respondents to regularize the employment of the applicants as per the law.

8(VI). Any other relief which this Hon'ble Tribunal deems fit and appropriate to the facts of the case."

3. The learned counsel for the respondents submits that during the pendency of the OA, the respondents have considered the matter and have issued Office Memorandum-20/18 No.HRD/R/02 dated 22.06.2018 (Annex A-28, page 435) and in view thereof the prayers of the applicant at paragraph No.8(I) and (II) have become infructuous. The learned counsel for the applicants very fairly admits the same.

4. With regard to the prayer made in paragraph No.8(III) of the applicant, the learned counsel for the respondents submits that the respondents are always ready and willing to adhere to the extent bye-laws. Accordingly, this prayer of the applicant also stands satisfied.

5. With regard to the applicants' prayer for protection of their employment and not to be terminated without following due process of law is concerned, there cannot be any dispute and the same is also not disputed by the learned counsel appearing for the respondents and states

that whenever termination of the employment of the applicants will be required to be considered and the same shall be considered only after following the due procedure of law and not otherwise.

6. To all such submissions of the learned counsel for the respondents, the learned counsel for the applicant is having no objection and he accepts them. Thus, in the aforesaid OA, the only aspect which requires to be looked into and adjudicated is the prayer of the applicant at paragraph No.8(V) of the OA for direction to respondents to regularize their employment under the respondents as per the law.

7. In this regard, the learned counsel for the applicants invites our attention to the provision of 18.1.5.1 or 18.1.5.2 of the bye-laws of the respondents which provides as under :-

"18.1.5. Migration from Contractual position to Regular position :

18.1.5.1. Such contractual employees (Employees recruited on pay scale and not on consolidated salary) who have completed two or more contractual terms, covering a minimum of ten consecutive years, shall be considered for a regular appointment, provided, however, no such appointment shall extend beyond the age of superannuation. Such regularization shall be based on merit and carried out through a duly constituted committee for this purpose and the candidates meeting the provisions of Recruitment Rules of C-DAC.

18.1.5.2. Society may consider cases of

meritorious contractual employees (employees recruited on pay scale and not on consolidated salary) who have completed six years of service with the Society for review for regular appointment, provided, however, no such appointment shall extend beyond the age of superannuation."

8. On the basis of such provision of Bye-laws, the learned counsel for the applicants submit that it is incumbent upon the respondents to consider regularization of the applicants. However, till date they have not done the same. However, on going through the representations dated 26.02.2013 (Annex A-10 collectively) of the applicants, we find that in it they have not even prayed for their regularization and in fact they have requested for renew of their contractual employment for next five years.

9. In the aforesaid facts and circumstances, the learned counsel for the applicants under instructions of the applicants in Court seeks liberty to make a comprehensive representation to the Competent Authority under the respondents for regularization of their services in accordance with law.

10. In view of the aforesaid, the OA is disposed of keeping in view the statements made and noted herein-above and liberty is granted to the applicants to make a comprehensive representation to the Competent Authority under

the respondents for regularization of their services in accordance with law within two weeks from the date of receipt of certified copy of this order.

11. In case such representation is received from the applicants within the time stipulated above, the respondents are directed to consider the same keeping in view the rules, bye-laws and applicable laws by passing a reasoned and speaking order within eight weeks from the date of receipt of certified copy of this order. No costs.

(R.N.Singh)
Member (Judicial)

(Dr. Bhagwan Sahai)
Member (Administrative)

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