

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.472/2003

New Delhi this, the 21 st day of May, 2004

Hon'ble Shri S.K.Naik, Member (A)

Devender Kumar Chauhan  
WZ 235, B/1A, Indrapuri  
New Delhi

.. Applicant

(Shri Devesh Singh, Advocate)

VERSUS

1. Director General  
Indian Council of Agricultural Research  
Krishi Bhavan, New Delhi

2. Project Director/Project  
Krishi Anusandhan Bhawan II  
Pusa Campus, New Delhi

3. Director  
National Bureau of Plant  
Genetic Resources, Pusa Campus  
New Delhi

4. Scientist Incharge (GUH)  
National Agricultural Technology Project  
Pusa Campus, New Delhi

.. Respondents

(Shri Satish Kumar, Advocate)

ORDER

Applicant, who was working as Research Associate in National Facility for Plant Tissue Culture for Repository, had earlier filed OA 2222/2002 challenging the termination of services w.e.f. 31.3.2002. That OA was disposed of by the Tribunal on 22.8.2002 with a direction to the respondents to dispose of the representations made by the applicant. Pursuant to that, respondents vide their letter dated 9th/16th October, 2002 have informed the applicant that his request for reinstatement has not been agreed to since the project under which he was appointed has been terminated w.e.f. 31.3.2002. This has been challenged in the present OA by the applicant inter alia seeking a direction to the

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respondents to consider his claim for his fresh engagement as Research Associate in terms of circular dated 23.1.2002.

2. Learned counsel appearing for the applicant has stated that the applicant was appointed as Temporary Research Associate in NFPTCR, a Project under ICAR w.e.f. 2.9.1997 and continued as such till 26.2.2001. Thereafter he was transferred to Germplasm Conservation Division in Germplasm Handling Unit vide order dated 26.2.2001 and he continued to work there till 31.3.2002 when he was informed that his services stood terminated. He had made representations on 15.6.2002 and 5.7.2002 which have resulted in the impugned rejection order. Applicant had also applied for the post in question in response to the advertisement released in June, 2002 but he has not been given preference. He has made another representation in October, 2002. The counsel contends that the project to which the applicant was transferred was to terminate on 31.3.2003 with likelihood of it being extended beyond that period. Therefore his termination w.e.f. 31.3.2002 is not legally justified.

3. Respondents have contested the case. Counsel for the respondents has submitted that in the offer of appointment to the applicant it was clearly stipulated that his services were on purely temporary basis and were c-terminus with the project. As far as his transfer was concerned, the same was to be effected since a memo dated 24.1.2001 (Annexure R-I) reflecting adversely upon the unsatisfactory performance/misbehaviour of the applicant was issued to him by the incharge of the Project. However the competent authority after considering the issue and

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'taking a lenient view shifted the applicant to another unit for work till the project gets completed. Representations given by the applicant on 15.6.2002 and 5.7.2002 have already been replied to in pursuance of the directions of the Tribunal in OA 2222/2002 (supra) and thus the present OA has become infructuous. Therefore there is no need to reply to any more representation made by the applicant thereafter.

4. The counsel has further contended that since the project already <sup>stood ~~is~~</sup> completed on which the applicant was appointed, there was no ground for extension of the same and therefore his services were terminated on the expiry of the project. <sup>period. ~~is~~</sup> As far as applicant's applying to the post in response to the advertisement (supra), he has stated that since the applicant's work was not found upto the mark by the Selection Committee, he was not recommended for appointment to the said post. Therefore, nothing survives in the present OA and the same be dismissed.

5. I have heard the counsel for the parties and considered the pleadings.

6. Perusal of appointment order dated 1.10.1997 makes the position clear that the appointment was purely temporary basis not involving any claim for permanency and that it could be terminated on completion/expiry of the project, about which the applicant was aware of. That apart, his transfer was effected because of his deteriorating performance and misbehaviour with his superior, but the competent authority took a lenient view to shift him and continued him till the expiry of the

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project. The contention of applicant that he would have to be treated to be a member of the project to which he has been transferred and, therefore, would be entitled to serve upto 31.3.2003 is without any merit and needs to be rejected. Just because he was paid his salary out of the transferred project, I am afraid, will not clothe him with any vested right to become a part of that project. That would amount to providing a premium to inefficiency.

7. The learned counsel for the respondents has drawn my attention to the following decisions of the apex court in support of his averment that the applicant is not entitled for the relief prayed for:

1. K.Rajendran V. State of Tamil Nadu AIR 1982 SC 1107 - It is well settled that abolition of a post is a management function and an employee cannot have anything to say in this matter.
2. Rajendra V. State of Rajasthan 1999(2) SCC 317 - An employee has no right to continue when the post is abolished.
3. Joyachan M. Sebastian V. DG & Ors. 1997(2) LLJ 677 - On abolition of post, the holder of the post has no right to continue on the post.
4. State of HP V. A.Kumar 1996(1) SCC 773 - When the project is completed and closed due to non-availability of funds, the employees have to go alongwith the closed project. The High Court was not right in giving the direction to regularise them or to continue them in other places. No vested right is created in temporary employment. Directions cannot be given to regularise their services in the absence of any existing vacancies nor can directions be given to create posts by the State to non-existing establishment.

8. In the case in hand not only the project in which the applicant was working came to an end on 31.3.2002 but the applicant has been replied to in terms of Tribunal's directions by a proper speaking order. Coupled with that, he was not recommended by the Selection Committee when applied for the post in response to the advertisement.

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9. The aforementioned decisions of the apex court makes the position very clear and are binding on this Tribunal. Having regard to the same and what has been stated in para 8 above, I find no merit in the present OA and the same is accordingly dismissed. No costs.

*S.K. Naik*  
(S.K. Naik)  
Member(A)

/gtv/