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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2116/2003

New Delhi, this the 28th day of August, 2003

Hon'ble Shri Justice V.S. Aggarwal, Chairman  
Hon'ble Shri S.K. Naik, Member(A)

Mukul Yadav  
R-5, Shatbhoipuram Phase 2  
Gwalior, Madhya Pradesh .. Applicant  
(Shri S.K. Sinha, Advocate)

versus

1. Institute of Pathology (ICMR)  
through its Director  
Safdarjung Hospital Campus  
New Delhi
2. Indian Council of Medical Research  
through its Director General  
Ansari Nagar, New Delhi .. Respondents

ORDER(oral)

Justice V.S. Aggarwal

The applicant by virtue of the present application is seeking a direction to continue with the employment in the Institute of Pathology, ICMR, Safdarjung Hospital, New Delhi and a further direction to be issued to the respondents to sponsor the name of the applicant for enrolment for Ph.D. at the Off-Campus Centre of Birla Institute of Technology & Science (BITS), Pilani.

2. Some of the relevant facts alleged by the applicant are that BITS has been participating in the Human Resources Development activity, institutionalized linkages established by the Institute with various organisations. Besides many programmes, the Institute conducts M.Sc./M.Phil Degree programmes which are higher degree programmes on the input of an integrated First Degree of BITS or its equivalent. The bulletin for the

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year 1997-98 for admission to the integrated first degree course of M.S. Biomedical Sciences programme for sponsored candidate of the Institute of Pathology, New Delhi for man-power development of their employees and is formulated to enable candidates to finish their course work for pursuing the Ph.D. programme of BITS.

3. It has been pointed that the name of the applicant has been sponsored by the respondents on 13.2.96. The same reads -

"This is with reference to your admission to M.S./Ph.D registration of BITS at the Institute of Pathology and you have been considered for the same.

You are directed to report to the undersigned by Tuesday the 17th February, 1988."

4. After the applicant has completed viva-voce in the final semester of this programme, registration of the applicant was accorded by an order of 15th September, 1999 issued by the Institute of Pathology, which reads -

#### MEMORANDUM

Mr. Mukul Yadav admitted to the Off-Campus Programme of M.S. (Biomedical Sciences) BITS, Pilani at the Institute of Pathology during the session 1997-98. With the completion of viva-voce in final semester of the above programme, his registration of M.S. Student at IOP stands terminated.


If he intends to enroll for Ph.D at the Off-Campus Centre of BITS, Pilani at IOP, an application may be submitted to the undersigned for the same in the proforma enclosed along with by 30th September, 1999.


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5. The grievance of the applicant is that he is an employee of the respondents as has been shown in the Annual Report of the Institute of Pathology, New Delhi and on the strength of these facts it is contended that since the course was available only for Govt. employees, the action of the respondents referred to above is not valid.

6. We have carefully considered the submissions referred to above. Certain facts which are relevant in this case are that if a person can claim himself to be an employee of the Institute, he must have some contract with the employer. Our attention has not been drawn to any order thereto on the basis of which it can be stated that the applicant was an employee of the respondents.

7. If for purposes of the course to be attended the applicant was registered for admission to the course of M.S. Biomedical Sciences, it would not make him a contractual or ad hoc or temporary or permanent employee of the respondents. In this view of the matter, when on completion of the viva-voce in the final semester his registration was terminated, we find that it cannot be termed as invalid and there is no illegality in the said order. Resultantly, the OA must fail being without merit and is accordingly dismissed.

  
(S.K. Naik)  
Member(A)

  
(V.S. Aggarwal)  
Chairman

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