

(2005) 09 DEL CK 0014

In the Delhi High Court

Case No : Writ Petition (C) No. 2832 of 2005

Deepak Kumar Rajput

APPELLANT

Vs

The Council of Scientific and Industrial Research and Others

RESPONDENT

Date of Decision : 27-09-2005

Acts Referred:

Citation : (2005) 124 DLT 365 : (2005) 84 DRJ 503 : (2006) 108 FLR 172 :
(2006) 1 LLJ 930

Hon'ble Judges : Sanjiv Khanna, J;Dr. M.K. Sharma, J

Bench : Division Bench

Advocate : Mridula Ray Bhardwaj, for the Appellant; K. Iyer, for the Respondent

Final Decision : Dismissed

Judgement

Mukundakam Sharma, J.—The petitioner herein has filed the present writ petition as against the order dated 29th October, 2004 passed by the Central Administrative Tribunal, dismissing the Original Application of the petitioner. In the said Original Application, the petitioner had prayed that the respondents be directed to pass a similar order as in identical matter i.e., OA No. 442/00, dated 1st September, 2000 which had been confirmed by the Calcutta Bench of the Tribunal. The petitioner had also sought for a direction for grant of salary to him for the months of March, 2004 onwards and also to give him the benefit of the Casual Workers Absorption Scheme, 1990.

2. The said Original Application was filed contending that the petitioner was appointed on contractual basis and was awarded work of data compilation and inputting for a period of six months with effect from 17.8.2001 vide order dated 5.9.2001 on a consolidated salary of Rs. 26,100/- to be paid in three equal Installments under the project titled "Environmental Statistics and Mapping in Delhi - Application of Spatial Technologies." For the aforesaid work he had entered into an agreement with the respondents. One of the conditions in the said agreement was that the term of the contract shall not be and will not be extended further and can be terminated by the employer. In the Original

Application it was stated that respondent No. 1 had formulated a scheme called "Casual Workers Absorption Scheme" and that in the identical OA No. 442/00 filed before the Calcutta Bench of the Tribunal, the Tribunal has passed an order dated 1.9.2000 directing that the case of the petitioner therein should be considered under the "Casual Workers Absorption Scheme, 1990". The petitioner sought for similar benefits to be given to him by the respondents.

3. The aforesaid O.A. was contested by the respondents contending, inter alia, that the petitioner was engaged on a project on contractual basis initially for a period of six months for which he had entered into an agreement with the respondents and that his tenure of contractual service was extended from time to time which finally came to an end on 29.2.2004. It was also pointed out that as per the terms of the contract, the tenure of the engagement could be curtailed or extended and in any case, it was co-terminus with the project. It was also stated in the counter-affidavit filed by the respondents that the tenure of the project ended on 29.2.2004 and full payment as per the contract was made to the petitioner. It was accordingly stated that since the petitioner was engaged for a specific project, he cannot claim for regularisation in any scheme after completion of the project.

4. The aforesaid pleas raised in the pleadings were considered by the Tribunal and by a detailed order it was held that the petitioner was not covered for regularisation or absorption under the CBRI Contractual Workers Absorption Scheme as the said scheme was introduced as a one time measure and was applicable only to those workers who had worked for more than 240 days in a year as on 22.11.1991. It was also held that the Casual Workers Absorption Scheme is also not applicable in the present case particularly when the petitioner was engaged only for a specific project and with the completion of the said project, his services came to an end.

5. The contract between the petitioner and the respondents is placed on record as Annexure R-1. The contract period was initially for six months from 14.2.01 to 13.8.2001 with a stipulation that the same could not be extended further and could be terminated by the employer without assigning any reason. The aforesaid contractual work was extended from time to time and the said appointment came to an end on 29.2.2004 after which the said contract was not extended. Therefore, it is established that the service of the petitioner was contractual in nature. It is also brought on record that the aforesaid project for which the petitioner was given a contract appointment has also come to an end. So far as such appointment is concerned, the Supreme Court has rendered several decisions particularly with respect to the plea of casual employees and contract employees as to whether their services should be ordered to be regularised. One of the important and oft referred decisions on the said issue is the decision of Dr. (Mrs.) Chanchal Goyal Vs. State of Rajasthan, . In the said decision it was held that unless the initial recruitment is regularised through a prescribed agency, there is no scope for a demand for regularisation. In the

context of the facts of the said case it was found that it was clearly stipulated in the initial order of appointment that the appellant was required to make room once a candidate selected by the Service Commission was available and even if such a candidate did not join would not confer any right on a person, who was appointed on ad hoc basis, to be regularised in service. A person engaged on a contract cannot equate his case with that of ad hoc employees since the contractual employee is fully aware of the limited tenure of his appointment. In *M/s. Murlidhar Shyamlal and another Vs. State of Assam*, the Supreme Court enunciated that the process of regularisation involves regular appointment which can be done only in accordance with the prescribed procedure.

6. In this case there are two schemes which are referred to in the pleadings of the petitioner on which strong reliance was placed seeking for regularisation of services. The scheme of Casual Workers Absorption Scheme of CSIR, 1995 was applicable to casual workers engaged prior to 5.12.1988. The said scheme Therefore, cannot be made applicable to the case of the petitioner as he was engaged on contract basis in 2001. Similarly the scheme called Casual Workers Absorption Scheme also is not applicable to the petitioner as the said scheme clearly laid down in paragraph 3 thereof that the said scheme was a one time measure and was applicable to those workers who were engaged on casual/contractual basis and paid monthly salary by the Institute up to 22.11.1991. The petitioner was engaged with effect from 17.8.2001 in respect of a project on payment of a lumpsum amount of Rs. 26,100/-. Therefore, the petitioner cannot claim any right to continue to work after the end of the project and also for regularisation which cannot be done as service of the petitioner was contractual. Therefore, we find no infirmity in the order passed by the learned Tribunal in the present case. The order passed by the Tribunal is upheld. The writ petition is held to be without any merit and is dismissed.