
(2014) 12 RAJ CK 0170

In the Rajasthan High Court

Case No : Civil Writ Petition Nos. 3985, 4035 and 4036/2010

Dharmendra Kumar Bhoi

APPELLANT

Vs

State of Rajasthan

RESPONDENT

Date of Decision : 08-12-2014

Acts Referred:

Citation : (2014) 12 RAJ CK 0170

Hon'ble Judges : Sandeep Mehta, J

Bench : Single Bench

Advocate : Kuldeep Mathur, Advocate for the Appellant; B.D. Sharma, Dy. GC, Advocate for the Respondent

Judgement

Sandeep Mehta, J.—The three writ petitions involve a common question and are thus being decided by a single order.

2. By way of the instant writ petitions, the petitioners have prayed for the following relief:-

"(i) The action of the respondents engaging the persons on contract basis through placement agency in place of the petitioner may kindly be declared to be arbitrary and illegal and the same kindly be quashed and set aside and they be allowed to continue to work on the post of Consultant/Technical Assistant in National Food Security Mission without any further interruption, with all consequential benefits to them.

(ii) Any other relief which this Hon'ble Court deems just and proper in favour of the petitioner, may kindly be granted and

(iii) The cost of the writ petition be allowed in favour of the petitioner."

3. The petitioners applied for and were offered a contract under the National Food Security Mission propounded by the Central Government and executed by the State of Rajasthan in pursuance of an advertisement inviting applications vide (Annex.4) dated 15.2.2008. The agreement specified that the services of

Consultants, Sr.Technical Assistants and Technical Assistants were required on contractual basis for the execution and operation of the National Food Security Mission. The petitioners claim that in pursuance of the said advertisement, they applied for and were granted contractual basis engagement initially for a period of one year. The said period was extended by another year whereafter, the respondents began looking for replacement of the petitioners with some other candidates to be procured from a placement agency named Hansa.

4. Upon this, the petitioners filed the instant writ petitions challenging the proposed termination of their contract.

5. While entertaining the writ petition preferred by the petitioners, initially this Court vide order dated 21.4.2010 directed that the respondents shall not give appointment to the persons, who may be provided by the placement agency for the post of Technical Assistant and Consultants in the National Food Security Mission in place of the petitioners, whose term of appointments had come to an end. The said interim order was modified on August 18, 2010 and this Court passed the following interim order in favour of the petitioners:-

"After hearing the learned counsels at some length and in view of the facts and circumstances of the case, the order dt. 21.4.2010 is modified to the extent that the present petitioners will be allowed to resume their duties and shall be continued in the respective positions irrespective of expiry of contract for service on 31.3.2010 till further orders and subject to final decision this writ petition. It is made clear that no equity would arise in favour of the petitioners nor they shall be able to claim any right by such working under the modification of said order made by this Court today and their continuance in respective positions will be subject to final decision of this writ petition."

6. In pursuance of the said interim order, the petitioners were allowed to resume their duties and are reportedly continuing on their respective positions till date.

7. Learned counsel for the petitioners submits that as the National Food Security Mission continues and as the respondents still require the services of the persons having expertise like the petitioners, they be directed to continue the petitioners on their respective posts by extending their contracts. He further submits that list of persons which had been forwarded by the placement agency Hansa, for replacing the petitioners, by now must have become ineffective and infructuous and thus, the petitioners' contractual services should be continued as long as the project continues.

8. Per contra, the learned counsel for the respondents drew the attention of this Court to the contracts, which were executed between the parties being Annex.7 & 8. He relies on Clauses 6, and 11 of the contracts and urges that the petitioners were engaged on purely contractual basis. They have no right to continue on the respective engagements. The Clause 11 of the contract specifically recites that in any event, the total period of contract shall not exceed 4 years in all or the date on which the plan/scheme/project closes, whichever is

earlier. He thus submits that as the period of 4 years has come to an end long back, the petitioners have no right to be retained in the project. He, therefore, submits that there is no force in the writ petition and the same deserves to be dismissed.

9. Heard and considered the arguments advanced at the bar and perused the material available on record.

10. It is not in dispute that the engagement of the petitioners under the scheme/project was purely on contractual basis. The advertisement (Annex.4) itself mentions that the services of the Technical Assistant/Sr.Technical Assistants were to be procured on contract basis to execute the mission. The terms of the agreement executed between the petitioners and the Project Director clearly set out that the engagement was purely on a contractual basis and the Consultants would not be entitled to any claims, rights, interest or further benefits. The relevant terms of the contract are quoted hereinbelow for the sake of convenience:-

"6. The engagement of the Consultant is purely on a contract basis and the Consultant would not be entitled to any claims, rights, interest or further benefits in terms of regularization or consideration of further appointment to any post or position under the Society or the Government in any department.

11. The period of contract can however be extended by mutual consent for a period of not more than one year at a time but will not in any case exceed four years in all or the date on which the plan scheme/project closes, whichever is earlier. New contract will be signed every year for every such extension and in no case will a general order of extension be issued. In case of Project/Programme/Mission stops before the normal date or closes for any reasons whatsoever, agreements shall stand terminated automatically at the end of the month or from the date of such intimation by second party to the first party."

11. Clause 6 of the contract specifically states that the offering of the contract shall not give any entitlement to the Consultant to claim right, interest or further benefits in terms of regularisation or consideration of further appointment. Clause 11 of the contract recites that the contractual appointment in no case can be continued beyond four years. Once having agreed to the terms of the said contract, it does not lie in the mouth of the petitioners to claim that as the project continues, they should be considered for continuation of their engagement on contractual basis even though the period of four years referred to in Clause 11 has already come to an end. The petitioners have already enjoyed the contractual engagement much beyond the outer limit specified in Clause 11 of the contract under the interim order of this Court and they are now estopped from laying any claim for further extension.

12. There is no illegality, arbitrariness or unreasonableness in the action of the respondents in refusing to extend the engagement of the petitioners in the project/scheme on contractual basis. The petitioners have not been able to

demonstrate that they acquired any right to claim continuance so as to entitle them to any relief in this writ petition.

13. Resultantly, the writ petitions being devoid of any merit, are hereby dismissed.

14. If the respondents desire that the services of the petitioners should be procured in future on contractual basis, the order passed by this Court would not come in their way in taking such step.

15. No order as to costs.

16. Copy of this order be placed in each file.