

(2021) 12 CAT CK 0011

In the Central Administrative Tribunal

Case No : Original Application No. 1873 Of 2021

Dr. Poonam Gupta

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 22-12-2021

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2021) 12 CAT CK 0011

Hon'ble Judges : Manjula Das, J; Mohd. Jamshed, Member (A)

Bench : Division Bench

Advocate : S.K. Gupta, Shailendra Tiwary

Final Decision : Disposed Of

Judgement

Manjula Das, J

1. In the present OA, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 09.08.2021 (Annexure A-1) issued by the respondents, whereby her services were dispensed with w.e.f. 03.09.2021 (A/N) and order dated 26.08.2021, vide which her representation for reconsideration of Notice for termination of contract has been rejected. Therefore, the applicant has prayed for the following reliefs:-

"(i) Quash and set aside the impugned order dated 09.08.2021 (Annexure A-1) and the order dated 26.08.2021 (Annexure A-2);

(ii) To direct the respondents to continue the services of the applicant on the post of Asstt. Director (Molecular Biology) upto the remaining term of contract or extended by Govt. from time to time;

(iii) Award consequential benefits to the applicant;

(iv) May also pass any further order(s), direction(s) as be deemed just and proper to meet the ends of justice."

2. The facts leading to the filing of present OA are that the applicant, who is a Postgraduate and possesses the Doctorate degree in Molecular Virology, was appointed as Assistant Director (Molecular Biology) in the office of respondent no.3 on contract basis for a period of one year or till the regular incumbent joins, whichever is earlier, on a consolidated monthly remuneration of Rs.67,700/- in terms of the terms & conditions enumerated in the offer of appointment dated 01.03.2019 (Annexure A-

3). One of the conditions contained therein is as under:-

"The appointment is purely on contract basis for a period of one year or till the regular incumbent joins, whichever is earlier, with effect from the date of joining. Thereafter, the contract will lapse automatically. The appointment can also be terminated at any time, on either side, by giving one month's notice or by paying one month's salary, without assigning any reason or failure to complete three months to the satisfaction of the competent authority."

3. The applicant joined the office of respondent no.3 on the said post on 10.04.2019 on contract basis initially for a period of one year, which was extended by the respondents for six months on two occasions, vide orders dated 01.04.2020 and 14.09.2020, and thereafter the contract was extended for one year i.e. upto 13.04.2022 on monthly remuneration of Rs.74,640/-, vide order dated 19.04.2021.

4. It is the case of the applicant that when she was asked to submit the monthly appraisal report, she submitted the same for the month of April, 2020 which was accepted by the reporting officer by rating her as 'Good', which was countersigned by HOD. The position regarding the appraisal report pertaining to the months from May to July, 2020 was no different. It is also submitted that appreciation certificate is issued by the respondents to the contractual employees of NCDC in connection with satisfactory performance of their duties. It is further submitted that the said appreciation certificate was given to various contractual employees of NCDC, whereas the applicant, despite having rendered satisfactory performance and receiving appraisal as 'Good' from senior officers, has been denied the same. Being aggrieved, the applicant submitted a representation dated 04.08.2021 highlighting her exceptional work of monitoring corona virus testings etc. during COVID-19 pandemic, but without considering the same, she was transferred from CA&RD to DPT Division, vide order dated 05.08.2021 (Annexure A-8) stating therein that due to her transfer, she would not be carrying out her ICMR DHR Project.

5. It is further submitted that the applicant was served a Memorandum dated 09.08.2021 terminating her contract on the ground that as per the report submitted by Internal Committee regarding wrong reporting and gross negligence in her official duties, her work was not satisfactory and she was not following the instructions of HOD/senior officers, which is an act of insubordination, which has been viewed seriously and, as such, one month's

notice w.e.f. 04.08.2021 upto 03.09.2021 was served upon her. According to the applicant, termination of her contract is illegal, arbitrary and stigmatic, and is, therefore, liable to be quashed and set aside, and the applicant may be permitted to continue with her contract.

6. Pursuant to notice issued by the Tribunal, the respondents have filed their reply wherein they have vehemently denied all the allegations, insinuations and averments made in the OA. They have further stated that there was misreporting of SARS-CoV-2 samples testing results on 03.07.2021 and the applicant was officer on duty on the said date. After re-interpretation of PCR results of 58 positive samples, only 2 samples were found positive and remaining 56 were negative. Corrective and preventive actions were taken immediately for the major lapse in reporting of COVID-19 testing by the applicant on 03.07.2021. Thereafter on the basis of report submitted by the Internal Committee qua mis-reporting and gross negligence in official duties by the applicant, who was working on contract basis, the contract of the applicant was rightly terminated, vide order dated 09.08.2021 by giving one month's notice as per the terms & conditions of the contract. There is no illegality in terminating the contract of the applicant.

7. We have heard Sh. Gupta, learned counsel for the applicant and Sh. Tiwari, learned counsel for the respondents.

8. During the course of arguments, learned counsel for the applicant restricted his claim to the extent that the applicant would be satisfied if the respondents are directed to remove the stigmatic portion mentioned in the termination order keeping in view her career progression.

9. It is seen that the impugned termination order dated 09.08.2021 has been stayed by this Tribunal, vide order dated 02.09.2021, and as a result thereof, the applicant is still continuing on contract basis with the respondents. It has also been noticed that the performance of the applicant has been appreciated by the officers under whom she was working, except the one incident mentioned above, and even by the officers where she was subsequently transferred.

10. Considering the limited prayer of the applicant and keeping in view her satisfactory performance, except the one as mentioned above, which admittedly was cured within the stipulated period of 48 hours, and also taking into account the interim order dated 02.09.2021 operating against the respondents, we are of the view that the ends of justice would be duly met if the respondents are directed to remove the stigmatic portion from the termination order, and pass a fresh termination order simpliciter.

11. In view of the above discussion, this OA is disposed of. The impugned order dated 09.08.2021 is quashed so far as the same casts a stigma on the performance of the applicant. The respondents will be at liberty to pass a fresh order sans the stigma portion as mentioned above. The interim order granted on 02.09.2021 stands vacated.

12. In view of the facts and circumstances, there shall be no order as to costs.