
(2022) 10 UK CK 0053

In the Uttarakhand High Court

Case No : Writ Petition Service Bench No. 311 Of 2019

Dr. Ruchika Tandon

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 20-10-2022

Acts Referred:

Citation : (2022) 10 UK CK 0053

Hon'ble Judges : Vipin Sanghi, CJ;Ramesh Chandra Khulbe, J

Bench : Division Bench

Advocate : Monka Pant

Final Decision : Dismissed

Judgement

Ramesh Chandra Khulbe, J

1. In this petition, petitioner has prayed for the following relief(s): -

"i. To quash the judgment and the order dated 24.05.2019 passed by the respondent no. 4 (Annexure No. 25 to this writ petition).

ii. To quash the impugned Office Order dated 20.07.2017 issued by the Principal Scientific Officer, Department of Science & Technology, Ministry of Science & Technology, Govt. Of India and order dated 22.06.2017, wherein decision has been taken to terminate the services of the existing Scientist/Staff working in the NGF, Dehradun and to make fresh selection.

iii. To quash the impugned communication dated 17.08.2017 issued by the Project Director, NGF, Dehradun giving advance notice of termination.

iv. To quash the impugned advertisement dated 31.08.2017 so far as it relates to the issuance of the advertisement for 01 post of Scientist-B in NGF project, Dehradun to be filled on contract basis on which the petitioner is already working in regular Pay Scale.

v. Issue a direction directing the respondents to reinstating the petitioner in

service in position of Scientist B with all consequential benefits including back pay or if her seat is not vacant then either creates a seat of Scientist B or to accommodate the applicant in vacant post of Scientist C in regular scale according to her qualification and experience.

vi. Issue any suitable direction which this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. Briefly put, facts of the case, as averred in the writ petition are that on 09.03.2009, Department of Science and Technology, Government of India and Indian Institute of Technology entered into an agreement for establishment of National Geotechnical Facility (hereinafter referred to as "NGF") at Dehradun. The expected duration of the project for establishment of NGF was for five years which might be extended by Department of Science and Technology and Government of India.

3. Initially, the responsibility to set up NGF was given to IIT Roorkee, however, the same was subsequently, transferred to Indian Institute of Surveying and Mapping, Hyderabad in pursuance to letter of Department of Science and Technology dated 06.01.2010. Vide letter dated 31.12.2010, the administrative responsibility of NGF was again transferred to Surveyor General Office, Survey of India, Dehradun.

4. The commencement of NGF in Survey of India, Dehradun was for five years from January 2010 to December, 2015. The advertisement was issued on 19.12.2011 by the Project Director, NGF, Dehradun for recruitment to various posts. In pursuance of this, the Project Director issued an appointment letter on 12.09.2012 to the petitioner regarding Scientist 'B'. Accordingly, the petitioner assumed charge of the said post. Due to administrative difficulties to operate the NGF by Survey of India, the office of Director, Administrative and Finance for Surveyor General of India was subsequently transferred to Wadia Institute of Himalayan Geology.

5. On 22.06.2017, the Department of Science and Technology issued an order regarding Project – NGF Phase-II from April 2017 to March 2020.

6. From the perusal of the above letter, it would clearly reveal that the staff and scientists were to be appointed afresh through Search-Cum-Committee and their services would be on contractual basis and co-terminus with the NGF Phase-II project.

7. On 20.07.2017, the Department of Science and Technology communicated that the staff working in the erstwhile project would be informed about fresh recruitment and salary structure of NGF Phase-II project, and services of the erstwhile staff will stand terminated on 31.10.2017.

8. In continuation of the above order dated 20.07.2017, the Project Director, NGF, Dehradun issued a communication to the petitioner on 17.08.2017 giving advance notice about termination of her services w.e.f. 31. 10.2017.

9. On 31.08.2017, the Project Director, NGF, Dehradun issued an advertisement for recruitment of Scientist and supporting staff for temporary posts on contractual basis for NGF Phase-II project. The petitioner, being aggrieved by the above orders, filed WPSB No.450 of 2017 for quashing the impugned orders dated 22.06.2017 and 20.07.2017 as well as advertisement dated 31.08.2017. The High Court, vide its order dated 24.08.2018, sent the matter to Central Administrative Tribunal (CAT) Bench at Nainital. The petitioner submitted her application to the CAT for quashing the orders dated 22.06.2017 and 20.07.2017 as well as the advertisement dated 31.08.2017, which was dismissed by the impugned order dated 24.05.2019. Hence this petition.

10. It is argued by the writ-petitioner that initially, the NGF issued the advertisement dated 19.12.2011 for permanent post and, accordingly, the petitioner applied for the post of Scientist 'B'. She was selected and appointment letter was issued to her. She worked against this post till 31.10.2017.

11. The Phase-II project started in continuation of the Phase-I project. Although, the respondent authority took a wrong decision on 22.06.2017 regarding termination of services of the existing staff in the NGF. The termination order dated 17.08.2017 issued by the Project Director, NGF is illegal, since the petitioner was already working in the regular pay-scale as Scientist 'B' in the said project. Accordingly, the advertisement dated 31.08.2017 relates to the post of Scientist 'B' is illegal.

12. Since, the Central Administrative Tribunal did not notice this fact, accordingly, the impugned judgement dated 24.05.2019 is liable to set aside.

13. Per contra, learned counsel for respondent nos.1 to 3 argued that NGF was sanctioned for a period of three years, accordingly, for the said period, advertisement was issued for the various posts. The appointment letter was issued in favour of the petitioner in which it was clearly communicated that her appointment is purely temporary and co-terminus. The said project has ended in March 2017. For the Phase-II project, fresh advertisement was issued on 31.08.2017. The petitioner applied for the post of Scientist 'C' but none of the candidates was found suitable by the selection committee. There is no illegality in the impugned judgment.

14. We have heard the petitioner-in-person and learned counsel for the respondents.

15. It is an admitted facts that respondent no.3 Project Director (NGF) issued advertisement for various posts. The petitioner applied for the post of Scientist 'B' and she was selected and, accordingly, appointment letter was issued on 12.09.2012.

16. The Department of Science & Technology again issued an order on 22.06.2017 for Phase-II project for the period w.e.f. April 2017 to March 2020. Accordingly, on 31.08.2017, the respondent- Project Director (NGF) issued fresh

advertisement for the various posts.

17. Against this order, the petitioner participated for the post of Scientist 'C'. Accordingly, three posts of Scientist 'B' were filled up and none was found suitable for the post of Scientist 'C'.

18. From the perusal of the appointment letter issued on 12.09.2012 regarding the petitioner, it is clear that the petitioner was appointed purely on temporary and co-terminus basis with the Phase-I project.

19. As per the advertisement dated 19.12.2011, it is clear that the said project was sanctioned only for a period of five years.

20. From the above, the following facts are emerging:-

A. As per the order dated 31.12.2010 issued by the Department of Science & Technology, Phase-I project was sanctioned only for a period of five years (Annexure-2).

B. In the Phase-I project, the Project Director (NGF) issued the advertisement on 19.12.2011 for various posts including the Scientist 'B' (Annexure-4).

C. The petitioner applied for the post of Scientist 'B'.

D. The appointment letter was issued on 12.09.2012 in favour of the petitioner (Annexure-5)

E. In the appointment letter it was clearly mentioned that "her appointment is purely temporary and co-terminus with the project.

F. The Department of Science and Technology issued an order on 22.06.2017 for the Phase-II project w.e.f. April 2017 to March 2020 i.e. for a period of three years (Annexure-15).

G. The Project Director issued fresh advertisement on 31.08.2017 for various posts. The petitioner applied for Scientist 'C' (Annexure-19).

H. None was found suitable for the post of Scientist 'C' while posts of Scientists 'B' were filled up.

I. As per the letter dated 17.08.2017, the appointment of the petitioner and other employees came to an end on 31.03.2017, however, their services were continued till 31.10.2017(Annexure-17)

J. The petitioner did not challenge her appointment letter dated 12.09.2012.

21. The appointment of the petitioner was purely on temporary and co-terminus basis for a temporary project which was for a term of five years. The said Project has come to an end on 31.03.2017. The Project Director had given advance notice to the petitioner for termination of her services, and for the Second Phase Project, the Department again advertised the post including Scientist 'B' and Scientist 'C'. We find no illegality in the said termination order as well as in the

advertisement, under challenge. The Central Administrative Tribunal has already dealt with all the issues raised in the writ-petition.

22. The petitioner cannot be said to have any right to continue in the Phase-II of the Project as Scientist 'B'. The Central Administrative Tribunal has rightly dismissed her claim on merits, and we find no illegality in the said action.

23. Accordingly, there is no merit in the present petition and the same is dismissed.

24. No orders as to costs.