

(2000) 03 DEL CK 0016

In the Delhi High Court

Case No : CW No. 5480/98

Rajvir Singh Tomar and Others

APPELLANT

Vs

Jawaharlal Nehru University and Others

RESPONDENT

Date of Decision : 21-03-2000

Acts Referred:

Citation : (2000) 03 DEL CK 0016

Hon'ble Judges : A.K. Sikri, J

Bench : Single Bench

Advocate : Mr. Shyam Babu, for the Appellant; Mr. Rohit Aggarwal, for the Respondent

Judgement

A.K. Sikri, J.—Petitioners in this case have been working for number of years. Their particulars as given in the writ petition are as under :

Name of Date of Designation Date of Pay Scale employee birth joining Rajvir Singh 8.7.1958 Sr.Technical 1.9.1983 Rs. 2825/- Tomar Astt. (2000-3500) Birendra 30.6.1971 -do- 6.3.1992 Rs. 2180/- Singh Bahal (2000-3500) Nand Kishore 15.3.1971 Technical 20.12.96 Rs.1440/- Asstt. (1400-2300) Ajay Kr. 29.8.1961 Lab. 16.3.1989 Rs. 2600/- Gupta Supervisor (2000- (STA by DBT) 3500) Jeewan Singh 10.1.1964 Laboratory 14.9.1983 Rs. 1470/- Assistant (1320-2040) Mahendra P. 01.1.1965 -do- 9.12.1983 Rs. 1470/- Yadav (1320-2040) Sultan Singh 30.7.1966 Messenger 16.8.1988 Rs. 846/- (750-900)enquiry They were appointed in Genetic Engineering Unit (GEU), a unit started by Department of Science and Technology in the Ministry of Science and Technology. In the year 1988 Department of Bio-Technology (DBT) took over GEU. Thereafter it was being run by Jawaharlal Nehru University (JNU) on funds being provided by DBT. This funding stopped on 31st March,1998 and services of the petitioners were dispensed with.

2. In this writ petition, the petitioners have prayed that they be regularized / absorbed on permanent basis in the unit with all other benefits of seniority,

promotion etc. and in the alternative they pray that they be absorbed/regularized in any other project, offices or Department of the respondents University.

3. The following propositions are made by the petitioner on the basis of which aforesaid reliefs are claimed:-

(1) Respondent/University had been representing from time to time that GEU is going to be part of the University and such promises are made from time to time which are declaring from various assurances given by the University authorities. Therefore, respondents are bound by the principles of promissory estoppel to give effect to the aforesaid promises. Respondent should, Therefore, make GEU as part of the University and regularise services of the petitioners.

4. In support of their submission that University authorities have been giving assurances from time to time that this unit would become part of the university, petitioners have relied upon various documents. It is submitted that advertisement dated 20.5.1989 was issued to the effect that positions are vacant in GEU in different pay scales and in this advertisement, it was inter alias stated as under :

"(i) To maintain status quo with regard to the functioning of the Genetic Engineering Unit until the end of VIIIth Plan.

(ii) To accept the GEU to become part of the University, its size, however after VIIIth Plan order determine depending upon the availability of the funds.

The following resolution No. 9 dated 27.09.1993 again caused a representation to the petitioners that the GEU would become part of the University on permanent basis."

5. Petitioners have also relied upon memorandum of understanding signed on 25th November,1992 between DBT and JNU as per which JNU had taken over GEU and in particular para 4 thereof which states that unit would be taken over by JNU after completion of VIIIth Plan period i.e. 31st March,1997. By office order No. 514/95 dated 23rd August,1995 the employees of GEU was also extended the benefits such as Provident Fund, LTC, CGHS, LIC etc. and this was done only because GEU was going to be part of JNU. It is further submitted that after the MOU dated 25th November,1993 between DBT and JNU was signed, Review Committee was set up and it gave its recommendations and bases thereon letter dated 10th January,1997 was returned by DBT to JNU. As per this letter the Review Committee had given the following recommendations :-

"1. As per the MOU the Facility should be taken over by the Host Institution.

2. The staff position should be taken over by the Host Institution and should support them during the next Plan period as per the MOU. The support should be as per the specified objectives and for the funding DBT and other agencies may be approached as per the identified priorities of various agencies including DBT."

6. JNU was accordingly requested to intimate about the implementation of the

recommendations. Thereafter circular dated 24th January,1997 was issued by DBT in which it was mentioned that JNU was likely to take over the Unit from 1.4.1997, but the number of positions that might be taken over is uncertain and would depend on the resources available with the University.

7. During this period the petitioners were appointed on specific period and this period was extended from time to time. Last extension was given on 31st September,1997 whereby it was extended up to 31st March,1998 but w.e.f. 1st April,1998 no extension was given and the services of the petitioners stood terminated. Petitioners submitted that this was clearly illegal on the part of the respondent/University as through various communications and in various meetings respondent/University has been assuring that the GEU would become a part of JNU and consequently petitioners were hoping to get their services regularised.

(2) The main reason for not regularising and rather terminating the services of the petitioner is that respondents alleged that GEU which was a project, has ceased to exist as project. However, according to the petitioners, this stand of the respondent is incorrect and GEU still continues to exist/run and thus petitioners have right to continue in service.

8. In support of his submissions, learned counsel referred to the counter affidavit as per which it is only financial support which was stopped by Department of Biotechnology (in short DBT) with effect from 1.4.1998. GEU was still continuing which, according to the petitioner, was clear from the following documentary evidence:

(a) On 26th November,1998, the profile of the University appeared in "The Hindustan Times" which inter- alias stipulated that they were specialised centres of the University and Genetic Engineering Unit (GEU) was one of the centres mentioned therein .Thus this unit was in existence even in November,1998.

(b) In the meeting held on 12th and 16th March, the issue regarding status of GEU was considered and it was resolved to maintain GEU as an autonomous unit as part of JNU;

(c) In letter dated 25th February,1999 written by Incharge, GEU to Deputy Registrar, Projects Cell, GEU, demand was made for notifying the revised pay scales of staff of GEU which implied that even in February,1999, GEU was in existence.

(d) By Office Order No. 60 dated 12th March,1998 of Assistant Registrar, JNU, provident fund was extended to the members of GEU.

3. It was lastly contended that the petitioners had been working for almost 16 years in GEU. In the process they had become over aged and Therefore even if the GEU has been closed down, it was the moral and legal duty of the respondent to absorb the petitioners in some other Units.

9. Counsel for the petitioner relied upon Judgments of the Supreme Court in the case Secretary-cum-Chief Engineer, Chandigarh Vs. Hari Om Sharma and Others, as per which stop-gap arrangements could not be made for more than 6 months. He also relied upon the following judgments in support of his submissions that after having worked for so many years, the petitioners had got the right to be regularised:

1. K.C. Rajeevan and 15 others Vs. State of Kerala and 2 others 1991(1) SCC 31.
2. Sri Brij Pal Das and others Vs . Ram Murat Singh and others ; and
3. Bachan Kumar Sahoo and others Vs. The Orissa State Housing Board and another 1992(2) SLJ 21.

10. On the other hand Mr. R.S. Suri, learned counsel appearing for JNU submitted that the petitioners were engaged only against Projects. They were not appointed by the University in any Department. The entire case of the petitioner was developed on the basis that GEU was a Department of JNU as is clear from para 4 of the writ petition as well as Ground "A" taken in the writ petition. The case of the petitioner, it was submitted by the respondent was based on wrong hypothesis as GEU was not a Department of JNU but only a Project. In support of this contention, learned counsel relied upon clause 1(aa) of the Second Schedule of the JNU Act which are the Statutes of the University.

11. It was further submitted that GEU was started as a project which was funded by the Department of Biotechnology. It being project, petitioners were appointed on purely temporary adhoc basis initially for a period of 6 months and this period was extended from time to time as the duration of the Project was extended. However the Department of Biotechnology stopped the funding with effect from 1st April,1998 and Therefore the petitioners' services were terminated. Appointment of the petitioners was up to 31st March,1998 only. It was further submitted that the functioning of the GEU was totally depending on the Funding Agency and once source of Funding Agency is stopped, the Unit ceased to exist. In the circumstances, the petitioners could neither be continued nor absorbed on regular basis.

12. To the submissions made by the petitioners, reply of the respondent was as under:-

(1) Dealing with the contention of the petitioner that respondents had assured that GEU would become part of JNU, it was argued that no such assurance can be spelt out from pleadings/documents. Reference was made to counter affidavit wherein it is explained that although there was proposal to take over the GEU and the question was considered by several Committees constituted by the Academic Council of JNU, various Committees deliberated on the merger of GEU with the existing Science College/Centre. The following decision was taken to manage the Unit as service for the benefit of students. Therefore it never became part of the JNU and remained only as a project which also ceased to

exist on 31st March,1998. The reasons for non-including of the staff in JNU are mentioned in the relevant portion which reads as under:

"....

(e) GEU, as a project, started with the aid of DBT (Government of India), with the main objective of conducting research on the Molecular Genetics of Nitrogen Fixation. Another objective laid down for GEU was to serve as a focal point with a view to stimulating genetic engineering research in the country.

(f) GEU was operated in a project made i.e. as a set of activities with well defined objectives, targeted goal to be achieved within a time frame and GEU never existed as a statutory centre of JNU. The GEU project staff was recruited from time to time depending on the requirements as per terms and conditions applicable to the projects.

(g) After GEU came into being, a Committee was constituted pursuant to a resolution adopted by the Academic Council in its meeting held on "14th March,1998 under the Chairmanship of Professor Bhattacharya. The objective of the Committee was to recommend modalities inclusive of structure and functions within the frame work of the University for merger of research projects/units such as Genetic Engineering with the University system. Copy of the relevant extract of the minutes of meeting held on 14.3.1990 is annexed hereto and marked as Annexure "A". The Committee recommended that as and when a proposal for merging of Project/Unit with the University is mooted a Committee should be constituted to consider merger of the proposal by applying the criteria:

- i) to recommend or reject the proposed merger;
- ii) to indicate whether the separate identity of the Project/unit should be preserved after the merger; and if so
- iii) to recommend any of the following modes:

A) The unit be recognised as a special centre in the manner the Centre of Bio-technology was created; or

B) UGC may be approached to provide funds under Special Assistance Programme; or

C) Preserve its independent identity.

Copy of the report of the Committee on modalities of the merger of research Projects/Units with the University is annexed hereto and marked as Annexure "B".

h) The Academic Council considered the above recommendations of the Committee, in its meeting held on 5.12.1990, and authorised the Vice Chancellor to set up a Committee to look into the specific needs of GEU, when it became a part of the University. Copy of the relevant extract of the minutes of meeting held on 05.12.1990 is annexed hereto and marked as "Annexure "C". In pursuance of the recommendations of the Academic Council, a Committee under

the Chairmanship of Prof. P.N. Srivastava was constituted to look into the specific needs of GEU when it became a part of the University. Prof. Srivastava's Committee made the following recommendations:

- i) GEU should be merged with Centre of Bio Technology;
- ii) Scientist's posts which were held by incumbents, be advertised as faculty positions and filled up.
- iii) Technical and Administrative posts should be reviewed in the context of working and future needs of the centre of Bio-technology for their absorption .

Copy of the recommendations given by the Committee on the specific needs of GEU when it becomes part of the University is annexed hereto and marked as Annexure "D".

(i) The above recommendations, Along with comments of the Science Schools and Centre of Bio-technology, were considered and it was resolved that:

(i) status quo will be maintained with regard to the functioning of the GEU till the end of VIII Plan. In other words, GEU will be functioning as an independent unit;

(ii) the proposal of making GEU a part of the University would be accepted. However, its size, after VIII Plan, will be determined depending upon the availability of funds; and

(iii) a functional group, comprising of the following members, would be set up under the Chairmanship of Rector II for coordinating the activities of GEU;

A. Dean, School of Environment Sciences (SES)

B. Dean, School of Life Sciences (SLS)

C. Chairperson, Centre of Bio-technology (CBT)

D. Director, Genetic Engineering Unit (GEU)

E. Director, Centre for Plant and Molecular Biology (CPMB).

After discussing various options the Committee arrived at a general consensus that GEU should be merged with SLS as an autonomous Centre in accordance with the University structure and Ordinances.

It was further unanimously opined that the infrastructural facilities of the GEU should be made available to all faculties of the Science Schools and its Special Centres. The Committee also decided to recommend to Respondent No.1 to take over three faculty positions, viz. Professor, Associate Professor and Assistant Professor. It was further decided that these positions should be taken over by the University and the staff already working in GEU would have to apply afresh and face Selection Committees for regularisation of their services.

The above recommendations were placed before Academic Council, in a meeting

held on 17.03.1997, wherein it was resolved that for the present status quo i.e. the status of an independent unit, would be maintained with regard to GEU. Copy of the resolution dated 17.03.1997 is annexed hereto and marked as Annexure "E".

(j) The Academic Council considered the status of GEU in its meeting held on 12th and 16th March,1998 resolved:

(A) to maintain GEU as an autonomous unit as a part of JNU;

(B) to make available the facility of GEU as a central facility accessible to all the faculty/students belonging to all science school/centres.

(C) to constitute an Advisory Committee having representatives from SLS, SES, CBT, BIC and GEU to coordinate and advice on the activities and other matters concerning GEU.

(D) that faculty of CBT will help in the for mutations of a plan for development of CBT.

13. Copy of the relevant extract of the resolution dated 16.3.1998 is annexed hereto and marked as Annexure "F".

14. In these circumstances GEU Project came to an end on 31st March,1998 when funding was stopped by DBT. On the basis of aforesaid submissions ,the respondents have denied that any assurances was given that the GEU would become part of JNU or the services of the petitioner will be regularised.

(2) It is also submitted that GEU is not functioning and it seized to exist with effect from 1st April,1998. It is only as a common facility that the GEU is still in existence and Prof. Kamlesh Upadhyay, Dean, School of Life Assurances has been given charge of managing and maintaining the facilities. It was also submitted that the documents on which reliance was placed to contend that the GEU was still in existence was totally misconceived. According to the respondents, these documents have no bearing on this issue.

(3) It was further submitted that the petitioner knew very well that they were appointed on adhoc basis in a Project and there services could come to an end once the Project ceased to exist. The respondents have even taken steps for the alternate employment. It is the petitioners who have to be blamed for not availing the facility. Upon the Department of Bio-technology authorising the Vice Chancellor to head a committee of experts for recruitment of personnel for National Centre for Plant Genome Research (NCPGR), an offer was made to all the employees of the Genetic Engineering Unit to appear for an interview scheduled on 23.03.1998. The good intention of the University to seek possible induction into the proposed NCPGR Centre of the petitioners was squandered by the petitioners. The petitioners thoroughly failed to avail themselves of the said opportunity offered to them by the University. It was further submitted that after loosing the aforesaid opportunity, present petition was filed as an after thought.

In the surrejoinder filed by the respondents, it is also explained that the employees of similar projects i.e. Centre for Plant Molecular Biology (CPMB) which was being funded by DBT up to 31.3.98 (funding stopped beyond the period) were also given an alternate job opportunity, in a similar fashion like GEU. Twenty seven employees appeared in the interview and they were all absorbed in National Centre for Plant Genome Research (NCPGR) which is autonomous body of the DBT (Govt. of India). Therefore, according to the respondents, the petitioners were to be blamed for loosing the opportunity. It is also being denied by the respondents that there are any vacancies in JNU or JNU has any need for the services of the petitioner. Reliance has been placed on letter dated 25th March, 1999 issued by UGC (University Grants Commission) whereby the respondent University has been directed not to recruit any non-teaching staff in the University. It has been stated in the letter that "the teaching to non teaching ratio is already above the norms of 1:3 prescribed by Punnayya Committee. Therefore, the Commission has decided not to approve any additional non teaching posts. The requirement for non teaching posts may be met by re-appropriating of existing posts". A bare perusal of the said letter clearly shows that there is no scope of any vacancy for non teaching staff in the Respondent University.

15. After considering the matter in depth, I am of the view that petitioners cannot be given the relief claimed in the petition. GEU was started as a project by Department of Science and Technology in the Ministry of Science and Technology. It was later on taken over by the DBT and thereafter by JNU but continued to be funded by DBT. From the documents on record, it cannot be denied that GEU remained as a project funded by outside Agency namely DBT and was not a department of JNU. Although in the petition the petitioners have alleged that GEU is a department of JNU and not Project at all, this line of argument was not even taken by the counsel for the petitioners at the time of arguments and arguments were addressed on the basis that GEU is a Project and not a Department. Even otherwise the language of Clause 1(aa) of the Statutes makes it abundantly clear that GEU was not a Department of the University but only a Project.

16. Once we arrive at the conclusion that GEU was a Project and its existence was not permanent but depended upon the funding by the DBT, the petitioners working in such a Project cannot claim the relief of regularisation. By the very nature of their appointments, it is clear that it was on temporary ad hoc basis and such appointment was extended from time to time only because of the extensions were given to continue the Project. Ultimately Project itself having come to an end on 31.3.1998, the question of regularisation of the petitioners in the said Project does not arise. The principle of promissory estoppel also is not applicable in the instant case as no promise was given to the petitioners that GEU would become part of JNU. In depth probe into this aspect, exposed the weaknesses of the stand taken by the petitioners. The details given by the respondent in the counter-affidavit and the rejoinder which are extracted above

would clearly show that the matter in this respect was duly examined by JNU by Constituting different Committees and there was a proposal for making GEU a part of JNU. However, ultimately the decision which was taken was that it would remain a Project. This was the policy decision of the respondents and if the respondents ultimately took decision not to make the said Project as permanent or part of the JNU, it was their policy decision and this Court cannot give directions to the respondents to act in one way or the other. It may be noticed that even in the meetings of the Committees where it was recommended initially that once the University takes over GEU and maintain this as an autonomous unit, the recommendation include that the staff working in GEU would have to apply afresh and face Selection Committee for regularisation of their services. Thus, even if JNU were to ultimately make GEU as its part, there was no promise held that the petitioners would be regularised automatically. On the contrary they were to apply afresh and face Selection Committee for regularisation of their services. Moreover, it cannot be said that believing on the alleged assurances, petitioners acted to their prejudice. Thus the principle of Promissory Estoppel is not at all attracted in the instance case.

17. The Supreme Court in the case of Director, Institute of Management Development, U.P. Vs. Smt. Pushpa Srivastava, has held that such employees who were working on Project are not entitled for regularisation and their services can be terminated once project comes to an end. To the same effect is the Judgment of the Supreme Court in the case of Dr V.P. Chaturvedi and Others Vs. Union of India (UOI) and Others, . Following this Judgment this Court has held in the case of Dr. Sheila Roy & Ors. Vs. UOI & Ors. 1993 (3) DL 9 that adhoc appointments for duration of Projects does not vest any right for regularisation. It would be apt to quote the following observations from this Judgment:

"19. We are afraid the services of the petitioners cannot be regularised since now the scheme that a scientists must have 15 years of service for regularisation has been formulated and that such persons cannot be considered in view of the scheme and which has been noticed and tacitly approved by the Supreme Court in its order dated 20.11.1991. Furthermore, the order dated 14.8.1991 in Dr. Chaturvedi's case, the Supreme Court has clarified that intention of the Judgment dated 22.3.1990 passed by the Supreme Court in Dr. V.L. Chandra and others Vs. All India Institute of Medical Sciences and others, . The Supreme Court has observed that while giving their final decision in Civil Writ Petition No. 999/88 they had no intention of creating a permanent cadre. In this connection the relevant extract of the order dated 14.8.1991 may be quoted:

"Mr. Venkataramani seriously pressed before us that the researches should have some schemes where within two to three years they could as in other Government service be made permanent and given guarantees of service. When we gave our final decision in Writ Petition No. 999/88 we had no intention of creating a permanent cadre of the type Mr. Venkataramani argues about. In fact project wise research helps to generate better efficiency than caderised research

organisation. Once service guarantees are provided and security of service is available, the flow of inspiration from within perhaps slows down. We had, Therefore, thought that those who had put in long period of research work should only be provided security so that in the later part of their service left, they may not be put to inconvenience.

20. In view of this clarification, the petitioners cannot claim regularisation merely on the basis that they have been working against such projects for fairly and long periods.

21. In this context, reference may also be made to Delhi Development Horticulture Employees' Union Vs. Delhi Administration, Delhi and others, when the question of regularisation of the petitioners employed on daily wage basis under Jawahar Rozgar Yojna was considered. In that case, the schemes under which the petitioners were given employment have been evolved to provide income for those who were below the poverty line and particularly during the periods when they are without any source of livelihood and without any income whatsoever and not to provide the right to work. The Supreme Court held that regularisation of such employees would frustrate the object of the scheme, as the state with limited resources would not be able to provide full employment to such employees and guarantee equal pay for equal work which would lead to winding up such schemes. The Supreme Court has further noticed that such employments gained by backdoor entry for a short period are given to persons who are either not registered with the Employment Exchange or who though registered are lower in the long waiting list in the Employment Registrar. Such employment also circumvent the relevant rules and regulations and some time for various illegal considerations, including money and the public interests are thus jeopardized .

22. These observations of the Supreme Court apply with equal force in the present case.

23. In the present case, the stand taken by the respondents is fully justified that the petitioners have been appointed for a short duration on consolidated salary against one project or another for which specific funds are provided by the Funding Agencies. The Institute has no option except to terminate the staff engaged for the purpose of research till the duration of the project and this fact was made clear at the time of their appointments and they knew fully well that the life of their employment is for the duration of the project only. In case the petitioners are regularised after a particular length service, the very purpose of starting these projects would be defeated as the Supreme Court in its order dated 14.8.1992 in Dr. Chaturvedi's case (supra) has rightly pointed out that in fact project wise research helps to generate better efficiency than regularised research organisation. Once service guarantees are provided and security of service is available, the flow of inspiration from within perhaps slows down. Even otherwise if persons are appointed against a regular cadre of the Institute for which so many scholars are needed, funds would not be available which are

provided by the Funding Agency outside the Institute. The Institute will not be able to withstand the financial burden of the cadre of the research scientists and thereby the research work of the Institute has otherwise to be stopped.

24. Further as held in Delhi Development Horticultural Employees' Union's case (supra) that the regularisation of such employees by by-passing the Employment Exchange and circumventing the rules and regulations" of the Department would be against the public interest. It would encourage the employment through back door entry and deprive the citizens of consideration on merits.

25. From another angle if the matter is viewed in order to maintain a petition the petitioners must show some right. No right has been shown by the petitioners for regularisation. Even if Core Research Cadre, assuming, has been sanctioned, the petitioners have no right to be absorbed against such posts as the recruitment of such scientists has to be made in accordance with the rules and regulations or the administrative instructions framed by the Department for the recruitment of scientists in the Core Cadre in which the petitioners can also apply and can be considered. Since the petitioners have no right to continue, their services after the completion of the project, which has expired, the petitioners' services can be validly terminated by the Institute.

26. Mr. Kalra, learned counsel for the petitioner brought to our notice that similar question arose in the case of Technical Assistant (Dietetics) in CW 647/89 Mrs. Surbhi Krishan Vs. AIIMS and others and in the case of Smt. Krishna Gaur Vs. AIIMS and others - CW 2003/91 - for consideration before a Division Bench of this Court and the writ petitions were dismissed vide orders dated 14.9.1989 and 26.2.1992 passed by B.N. Kirpal and C.L. Chaudhary, JJ and B.N. Kirpal and Santosh Duggal, JJ. respectively. CWP No. 647/89 was dismissed substantially on the ground that the project had been completed and the petitioners therein had no right to continue. In CWP 2003 of 1991, the Court held that the back door entry should not be permitted and the recruitment in service can take place only as per relevant Rules which the petitioners have not been able to show.

27. However, in all fairness, since the present petitioners have served the respondents for a long time and possess valuable experience in their respective field of research, it would be desirable that whenever the posts are sought to be filled up in accordance with the rules and regulations, a relaxation in age should be given to them to enable them to compete along with others and due weight to experience should also be given by the department. However, they will have to compete along with others for recruitment to the posts of scientists created in the Core Research Cadre.

In the case of Mrs. Surbhi Krishan Vs. AIIMS and others (supra) and noticed in the aforesaid Judgment this is what the Court observed while dismissing the writ petition:

"The petitioner was appointed vide an order dated 10th July, 1986 as a Technical Assistant (Dietetics) on a WHO scheme. The appointment was initially for a

period of 3 months which was extended from time to time. The last letter of extension is dated 11th July,1998 in which it is stated that the appointment of the petitioner, and others, is extended up to 30th September,1988 or till such time the regular incumbents join or on the completion of the tenure of the scheme, whichever is earlier. The scheme, according to the respondents, came to an end on 30th October,1988 and, Therefore, with effect from 31st October,1988 the petitioner ceased to be an employee of the respondents.

The first contention raised by the learned counsel for the petitioner was that the petitioner was an employee of the respondent Institute. This may be so, but the fact remains that the petitioner was recruited especially for a particular project, namely, WHO scheme. In every such institution, whether they pertain to medicine or engineering or some other professional or technical branch, some such projects are undertaken on specific grants being made. In order to take the benefit of the projects persons have to be recruited. If those persons, who are recruited for those projects which have a limited duration are to be regarded and to be treated as permanent employees, it will be impossible for such institutions in future to take on any more projects. This will be detrimental to the national interest. According to the respondents, they have undertaken over 500 projects from time to time and at present there are over 200 projects which are in progress. It is further stated that specific grants for the projects are received and the projects are of limited duration and they come to an end with the project being completed. While every effort should be made by the respondents, as far as possible, to absorb the employees who have been engaged for the project, in our opinion, the employees would have no right in law to continue to remain in service after the completion of the project. It was made clear to the petitioner that her services would be terminated by the 30th September,1988 or the completion of the project whichever is earlier. In fact, according to the respondents the termination took place on 30th October,1988 by virtue of the memorandum dated 11th July,1988. There is also no merit in the second contention of the learned counsel for the petitioner that no letter of termination was served. In view of the memorandum dated 11th July,1988 the term of appointment automatically came to an end on 30th September,1988 or at the latest on 30th October,1988."

Likewise in the case of Smt. Kishna Gaur Vs. AIIMS (supra), the Division Bench had the occasion to make the following pertinent observations:-

"The petitioner, however, has been working since 1984 and, Therefore, is not covered by that scheme. She is not entitled to regular absorption in terms of the aforesaid decision of the Supreme Court and, furthermore, it is quite clear that her appointment was correlated with a project which was being undertaken. Once the project was completed, the post to which the petitioner was appointed would obviously cease to exist and the petitioner could not be continued to a non-existent post. The petitioner also cannot claim any preferential right to absorption in a regular service especially when regular service has recruitment

rules laying down the conditions and qualifications for recruitment to the service. A back-door entry into service is not permitted and this has been reiterated by the Supreme Court, though in slightly different context, in the recent decision in the case Delhi Development Horticulture Employees' Union Vs. Delhi Administration, Delhi and others,

In a service which is regulated by recruitment rules, appointment, recruitment or promotion can take place only as per the terms of the rules, and the petitioner has not been able to show under which rule she is entitled to be absorbed with the All India Institute of Medical Sciences.

18. It is also not correct on the part of the petitioner to contend that the Project is still in operation/continuing. In fact, GEU, as a common facility, only is in existence. Thus students or teachers could use the Centre as a facility. Other activities ceased to exist with effect from 1st April,1998 when DBT stopped funding. It is now building, furniture and equipment of GEU, which are being used as a common facility by teachers and students of other facilities. The documents on which the petitioners relied do not help the petitioners. University profile which appeared in "The Hindustan Times" on 26th November,1998 mentioning that GEU as one of the Centres, is still in existence meant it to be for reference purposes as mentioned above. Likewise it is explained that the letter dated 5th February,1999 regarding revision of pay scales is for the period when the GEU was still in existences as arrears were to be paid on that basis. It is a matter of common knowledge that pay revision took place with effect from 1st April,1996. Office Order dated 12th March,1998 is also for the period prior to 31st March,1998. The same is the position in respect of other documents. Therefore, it cannot be said that GEU as a Project is in existence. There is no reason to disbelieve the averments made in the counter affidavit and surrejoinder by the respondents to the effect that DBT has stopped funding with effect from 1st April,1998 and because of that GEU as a Project has ceased to exist.

19. In view of the fact that the GEU was a Project and petitioners were appointed on temporary adhoc basis against the Project, various Judgments relied upon by the petitioner to claim regularisation on the basis that they have worked for number of years are of no help to the petitioners. Moreover those were the cases of Class-IV employees who were working on casual basis in the establishment for number of years. The ratio laid down in those cases cannot be made applicable to the case in hand.

20. However, one cannot lose sight of the fact that although GEU started as a Project but it continued for sufficiently long period. It was started in September,1983 and continued up to March,1998 i.e. for almost 15 years. Most of these petitioners were appointed initially or immediately after the start of the Project and continued till the Project ceased to exist and in the process they put in number of years of service. It is stated that the petitioners have become over-aged in the meantime. The fact also remains that there were at least

deliberations in the University and Committees were constituted to consider whether GEU should be made part of JNU. May be ultimately decision which was taken was not in favor of the petitioners, but because of constitution of the Committees and its deliberations/recommendations some hopes were generated in the minds of the petitioners. The petitioners have become overaged and Therefore they cannot get job in other Government/Department/Public Sector Undertakings. It is respondents' own case that employees of similar project i.e. CPMB which was also being funded by DBT up to 31st March, 1998 were given other job opportunities. 27 employees of CPMB who appeared in the interview were all absorbed in the MCPR which is an autonomous body of DBT. Although the respondents contend that some opportunity was given to the petitioners and the petitioners failed to avail this opportunity, the petitioners make submission that only few hours before the interview, they were informed about the same and conditions were also imposed on the petitioner who were appearing in the interview. One need not go into this controversy as to whether petitioners were at fault or not in the opportunity. If respondents took steps to absorb employees of CPMB and had given the same opportunity to the petitioners, such opportunity to the petitioners can be granted even now but only if vacancies are still available.

21. Therefore, the only direction which can be issued is that the petitioners be considered for suitable alternate jobs, in another Units if and where such vacancies are available, in a similar manner and by adopting same procedure as was done for the employees of CPMB. This direction is given keeping in view the peculiar facts of this case and particularly the fact that the petitioners rendered service for long period in GEU namely 15 16 years and become overaged in the process and respondents had themselves initiated this process earlier by giving such a chance to the petitioners. Therefore such direction would not be treated as precedents.

22. Subject to these directions the writ petition is otherwise dismissed. No order as to costs.