

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.3396 OF 2015

The Director, Central Institute of Cotton Research, P.B. No.2, Shankar Nagar Post Office,
Nagpur-440 033 and anr

..vs..

Nitin Nandkishore Zade

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Dr. (Shri) R.S. Sundaram, counsel for the petitioners.
Shri Shrivastava, counsel for the respondent.

**CORAM : B.P. DHARMADHIKARI &
KUM. I.K. JAIN, JJ.**

DATED : JUNE 27, 2016.

Heard learned counsel Dr. (Shri) R.S.
Sundaram for the petitioners and learned counsel Shri
Shrivastava for the respondent.

Contention of learned counsel Dr. (Shri) R.S.
Sundaram for the petitioners is, an *interim* direction issued
during pendency of the Original Application could not have
been held to be violated as the project, on which the
applicant (respondent herein) was working, was closed
down after work was over. Thus, termination was not on
account of any positive act on the part of the employer but
on account of circumstances beyond its control. It is
contended that in this situation, direction in the impugned
order to continue the respondent as Research Associate
w.e.f. 30.6.2012 is without jurisdiction and unwarranted.

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Learned counsel Shri Shrivastava for the respondent, on the other hand, submits that during pendency of Original Application No.2046 of 2008 and after hearing all concerned, *interim* order was passed by the Tribunal and the parties were directed to maintain *status quo*. Termination of the respondent on 30.6.2012 is in violation of this *interim* direction and hence, the Tribunal while disposing of the Original Application has adjusted equities. He submits that as there is no jurisdictional error or perversity, the present writ petition is misconceived.

The fact that the Central Administrative Tribunal itself has found that there is no contempt in the matter has come on record today when Writ Petition No.3579 of 2015 is disposed of as not pressed due to dismissal of contempt petition urging violation of that *interim* order. Contempt Petition No.2010 of 2013 is dismissed by the Central Administrative Tribunal on 30.3.2016.

In this situation, observation in impugned order dated 7.4.2015 that there is violation of *interim* direction issued by the Central Administrative Tribunal on 25.3.2008 is unsustainable.

The fact shows that the project, on which the respondent was working, came to be closed down. Certain other projects were going on. The respondent appeared for his selection against the post of Research Associate in those projects

but was not selected. These are events subsequent to passing of *interim* orders and subsequent to closer of the project in which the respondent was employed. His non-selection is suspected to be *mala fide* by the Central Administrative Tribunal.

The subject matter of Original Application No.2046 of 2008 was non-selection of the present respondent as Technical Assistant Grade-II. He was then working as Research Associate. During pendency of the proceedings, the Tribunal protected his employment as Research Associate. This *interim* order could not have been construed as a direction to the employer to continue him in employment even after project work was over.

In this situation, we find that direction to provide him work as Research Associate unsustainable.

This direction is already stayed on 25.6.2015 by this Court in the present matter. Accordingly, we quash and set aside the said direction.

It is important to note that except for this direction, Original Application No.2046 of 2008 is itself dismissed by the Central Administrative Tribunal.

The writ petition is thus allowed by making the Rule absolute. There shall be no order as to costs.

JUDGE

JUDGE

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