

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

WRIT PETITION NO.5630 OF 2015

(Dr. Prashant s/o Dinkarrao Zade vs. Union of India and others)

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

Shri A.M. Sudame, Advocate for petitioner.

Shri A.J. Pathak, Advocate for respondent nos.1 and 2.

CORAM : SMT. VASANTI A NAIK AND
KUM. INDIRA JAIN, JJ.

DATED : OCTOBER 25, 2016

By this writ petition, the petitioner challenges the common order of the Central Administrative Tribunal, dated 2/5/2012, dismissing the original applications filed by the petitioner for regularisation of his service and challenging the order of his transfer. Since the contractual services of the petitioner on the post of Senior Scientific Assistant were terminated after the original applications were dismissed, the petitioner has also challenged the order of his termination in this petition.

Shri Pathak, the learned Counsel for the respondent nos.1 and 2, submits that the issue involved in this petition, pertaining to the regularisation of the services and termination was also involved in the original application filed by Dr. Atul Vanerkar, who was also appointed on contractual basis on the post of Senior Scientific Assistant and whose services came to an end by the efflux of time and while considering the correctness

and otherwise of the judgment of the Central Administrative Tribunal in the case of Dr. Atul Vanerkar, this Court had, by the common judgment dated 18/2/2016 in Writ Petition Nos. 2751/2015 and 4790/2015, held that there was no fault on the part of the respondent nos.1 and 2 in refusing to regularise the services of Dr. Atul Vanerkar. It is submitted that just like Dr. Atul Vanerkar, the petitioner initially worked on the post of Senior Scientific Assistant with the respondent no.2 for five years and extension for a period of one year was granted to his services during the sixth year. It is stated that the facts involved in the case of Dr. Atul Vanerkar and that of the petitioner are similar and hence, the petitioner is not entitled to the relief of regularisation of his services. It is stated that if the services of the petitioner are not to be regularised, the challenge to the order of transfer would be futile, more so after the services have come to an end on the completion of the sixth year of service, on extension.

Shri Sudame, the learned Counsel for the petitioner, does not dispute that the facts involved in both the matters are similar. It is, however, stated that in the case of petitioner, in the 32nd meeting of the respondent no.2, the case of the petitioner was recommended for regularisation and promotion. It is stated that as in the year 2010, the case of the petitioner was recommended, the petitioner would be entitled to the relief as his case would be different from the case of Dr. Atul Vanerkar, only in that aspect.

On hearing the learned Counsel for the

parties and on a reading of the judgment in Writ Petition Nos.2751/2015 and 4790/2015, we find that the issue involved in the decided cases and in the present case is similar. Since this Court has held that there was no illegality in the action on the part of the respondent no.2 in terminating the services of Dr. Atul Vanerkar after the extended period of service of one year, it would be necessary to dismiss this writ petition for the reasons recorded in the judgment dated 18/2/2016 in the two aforesaid writ petitions. Just like Dr. Atul Vanerkar, the petitioner was also appointed on the post of Senior Scientific Assistant only for a period of five years and after the period of five years expired in the year 2010, the petitioner as well as Dr. Atul Vanerkar were continued only for the extended period of one year from 2010 to 2011. The facts involved in the present petition and in the case of Dr. Atul Vanerkar are almost identical in this respect. In our considered view, the judgment dated 18/2/2016 in Writ Petition Nos. 2751/2015 and 4790/2015 would govern the case of the petitioner also.

We are not inclined to accept the submission made on behalf of the petitioner that the case of the petitioner is different as he was recommended by the Governing Body in its 32nd meeting in the year 2010 for regularisation. If that was so, the petitioner should not have accepted the extension of his service only for a period of one year from the year 2010 to 2011. The order dated 15/12/2010 by which the petitioner's contractual services were extended by one year, clearly shows that the order of extension of services was passed

in favour of the petitioner only to consider whether the petitioner improves his performance within the extended period of one year. The petitioner accepted the said order like Dr. Atul Vanerkar without a demur. The petitioner, therefore, cannot be permitted to state that the respondent no.2 could not have extended the services of the petitioner by one year by the order dated 15/12/2010 when his case was recommended for regularisation in the 32nd Governing Body meeting on 28/10/2010. It is clear that after the 32nd Governing Body meeting was held, the petitioner's services were extended only for a period of one year by the order dated 15/12/2010, with a view to give a chance to the petitioner to improve his performance and the petitioner had readily accepted the said order without challenging the same.

Since the case of the petitioner is not distinguishable in view of the aforesaid aspect that is sought to be pointed out by the petitioner, the writ petition is liable to be dismissed for the reasons recorded in the judgment dated 18/2/2016 in Writ Petition No.2751/2015 and 4790/2015.

Hence, for the reasons recorded hereinabove and for the reasons recorded in the judgment dated 18/2/2016 in Writ Petition Nos.2751/2015 and 4790/2015, we dismiss this writ petition with no order as to costs.

JUDGE

JUDGE

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