

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.23466 of 2017
and
W.M.P.No.24637 of 2017

M.Aysha Banu

... Petitioner

-vs-

1. The Registrar,
Central Administrative Tribunal, Madras Bench,
Chennai.
2. The Union of India
rep.by its Director,
Indian Institute of Astrophysics,
Koramangala,
Bangalore-560 034.
3. The Assistant Personnel Officer,
Indian Institute of Astrophysics,
Koramangala,
Bangalore-560 034.

..Respondents

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order dated 05.06.2017 of the Hon'ble Central Administrative Tribunal, Madras Bench passed in O.A.No.310 /01609/2016 and quash the same as illegal and consequently direct the respondents 2 and 3 to give continuous job in I.I.A.by appointing the petitioner in the regular vacancies to the post to which she is qualified and eligible by taking into consideration the length of her service with all consequential benefits including regular scale of pay, increment, arrears of pay, seniority etc., to which she is entitled under the law.

For Petitioner	:: Mr.K.Lavan
For Respondents	:: Mr.S.Ravi for M/s.Gupta & Ravi for R2 and R3

ORDER
(Made by RMT.TEEKAA RAMAN, J.)

The petitioner herein belongs to OBC category. She completed M.Sc.Degree Course in Computer Science in May 1999. She was appointed as Project Assistant in Indian Institute of Astrophysics, Spectro Section at Kodaikanal in the year 2008 for a period of one year with consolidated pay and her tenure was extended periodically till 14.07.2011. Subsequently, by proceedings dated 14.07.2016, the third respondent relieved the petitioner from her duties in the afternoon of 14th July 2016.

2.Assailing the said order passed by the third respondent, the petitioner filed an application before the first respondent-Tribunal in O.A.No.310/01609/2016 and the Tribunal, considering the facts and circumstances of the case, dismissed the original application, by order dated 05.06.2017. Challenging the said order, the petitioner is before this Court with this writ petition.

3.The learned counsel for the petitioner has submitted that the third respondent, by office memorandum dated 14.07.2016 relieved the petitioner from the duties in the afternoon of 14.07.2016. On 21.07.2016, the petitioner made a representation to the third respondent to give her further opportunity of continuous job in I.I.A. and help her as well as her family, for which a reply dated 11.08.2016 was received by the petitioner stating that continuous opportunity in I.I.A.is not possible, however, the petitioner may apply for a job according to her suitability as and when the vacancies are notified. The learned counsel for the petitioner contends that having passed M.Sc.Computer Science in First Class, the petitioner applied for the post of Section Officer, which was notified, but even though the said application was accepted, she was not considered on the ground that she had completed the age of 40 at the relevant point of time. Stating so, he prayed for quashing the order passed by the Tribunal and for a consequential direction to the authorities to give continuous job in I.I.A.by appointing the petitioner in the regular vacancies to the post to which she is qualified and eligible by taking into consideration the length of her service with all consequential benefits.

4.A counter affidavit has been filed on behalf of the respondents 2 and 3 in which it is stated that the petitioner has no legal and subsisting right to demand a permanent position in the respondent Institute, since she was employed purely on

temporary / contractual basis in the past. It is stated that all appointments in Public Sector Undertakings or Autonomous Institutes have to be made keeping in mind the Constitutional Scheme for appointments, which is by way of issuing advertisements and calling for applications from candidates who fulfils the requisite eligibility criteria. Further, it is stated that there is no accrued right in favour of the petitioner to seek such a direction against the authorities nor there is a corresponding duty on the authorities to consider such a demand. Reiterating the averments made in the counter, the counsel for the respondents 2 and 3 prayed for dismissal of the writ petition.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The petitioner was appointed as Project Assistant in the field station of the respondent Institute in Kodaikanal initially for a period of one year with consolidated pay by letter dated 24.01.2008 and her tenure was extended periodically till 14.07.2011. Subsequently, by proceedings dated 14.07.2016, the third respondent relieved the petitioner from her duties in the afternoon of 14th July 2016. The appointment made was purely temporary / contractual. The age limit prescribed for the post of Section Officer is 35 years, but at the relevant point of time, the petitioner was aged 40 years and therefore, she became ineligible to apply to the said post. The Tribunal has rightly analysed the matter and observed that having accepted and signed the terms and conditions at the time of joining whereby it had been clearly agreed that the petitioner would have no claim whatsoever for regular employment in the respondent Institute or in any of its field stations, the petitioner cannot claim for any continuous job in I.I.A. Further, she has crossed the age of 40 years, as against the prescribed age limit of 35 years for the post of Section Officer, and that she is not entitled for age relaxation. It remains to be stated that the petitioner was accommodated in two earlier projects and when the projects came to an end, she was relieved of her duties, which is purely contractual. In the absence of any clause in the appointment order stating that the petitioner would be absorbed permanently in the respondent Institute, the petitioner cannot claim for providing her a continuous job. In the present case, the appointment order was issued only on a contractual / temporary basis and hence, the authorities rightly relieved the petitioner from her duties, after completion of the contractual period.

7. In view of the above stated circumstances, we are not inclined to interfere with the impugned order passed by the Tribunal and accordingly, the writ petition is dismissed. Consequently the connected miscellaneous petition is closed. No costs.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

KM

To

1. The Registrar,
Central Administrative Tribunal, Madras Bench,
Chennai.
2. The Director,
Indian Institute of Astrophysics,
Koramangala,
Bangalore-560 034.
3. The Assistant Personnel Officer,
Indian Institute of Astrophysics,
Koramangala,
Bangalore-560 034.

+1 CC to Mr.K. Lavan, Advocate sr 5021.

+1 CC to Ms. Gupta & Ravi, Advocate sr 4940.

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SKV(CO)
SP(20/02/2018)