

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Order: January 24, 2018

+ **W.P.(C) 715/2018 & CM 3066/2018**

SARAT CHANDRA PADHI Petitioner

Through: Mr. Gautam Kumar Laha and Mr.
Rajvardhan Singh, Advocates

versus

NATIONAL COUNCIL OF TEACHERS EDUCATION

..... Respondent

Through: Ms. Sonali Malhotra, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. In partial modification of Office Order of 8th August, 2014 (*Annexure P-2*), petitioner was engaged as a full-time Consultant (Legal) by respondent on contract basis for a period of six months or till further orders, whichever is earlier. Petitioner's engagement as full-time Consultant (Legal) had commenced on 22nd May, 2015. Vide Office Order of 17th May, 2017 (*Annexure P-3*), petitioner's engagement as full-time Consultant (Legal) was renewed by respondent for further period of six months from 21st May, 2017 or till further orders, whichever is earlier.
2. Learned counsel for petitioner submits that petitioner's engagement as full-time Consultant (Legal) with respondent had come to an end on 20th November, 2017. Petitioner's counsel submits that proposal for

extension of petitioner's term by another six months was floated in November, 2017, but no communication has been received from respondent and petitioner was surprised to learn that respondent on 6th December, 2017 has issued an Advertisement (*Annexure P-4*) for engagement of Legal Consultants on contract basis and the age limit for applying to the post of Legal Consultant is 61 years whereas petitioner is now aged 66 years and is ineligible to apply.

3. Learned counsel for respondent relies upon Supreme Court's decision in *Surinder Prasad Tewari v. Uttar Pradesh Rajya Krishi Utpadan Mandi Parishad & Ors.*, (2006) 7 SCC 684 to submit that it would be improper for the Courts to give direction in respect of temporary or contractual employees when they have not been appointed by following the procedure laid down under Articles 14, 16 and 309 of *the Constitution of India*. So, it is submitted that this petition deserves to be dismissed *in limine*.

4. Upon hearing and on perusal of material on record and decision cited, I find that equality of opportunity in public employment justifies issuance of Advertisement (*Annexure P-4*), which does provide age criteria of sixty one years. Supreme Court in *Surendra Prasad Tewari (supra)*, has reiterated that regularization of service of *ad hoc*/ contractual employees is not to be undertaken as they have not been appointed by following the procedure laid down under Article 14, 16 and 309 of the Constitution of India. Petitioner's reliance upon *Narinder Singh Ahuja & Ors. Vs. The Secretary, Ministry of Health and Family Welfare and Ors.* SCC OnLine Del 2243 is of no avail, as in the said case the contractual employment was being outsourced to third party and renewal of

contractual employment was to be considered till the currency of scheme/project.

5. No doubt petitioner was also appointed in pursuance to earlier Advertisement and the question of extension of his term has not been adequately considered by respondent but the selection process initiated in pursuance to Advertisement (*Annexure P-4*) cannot be halted. In the facts and circumstances of this case, it is deemed appropriate to direct respondent that before finalizing the recruitment process pursuant to Advertisement (*Annexure P-4*) petitioner be intimated as to why petitioner's case for extension has not been considered and what is the rationale to fix the age limit of sixty one years. Such a course is being adopted to enable petitioner to have recourse to law, if petitioner is not satisfied with the intimation so provided by respondent.

6. With aforesaid directions, this petition and application are disposed of.

Copy of this order be given *dasti* to learned counsel for the parties.

(SUNIL GAUR)
JUDGE

JANUARY 24, 2018

s/r