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

% ***Date of decision: 14th September, 2018***

+ **W.P.(C) 9625/2018**

SMT. VANDANA SHUKLA Petitioner

Through : Mr. Umesh K. Burnwal,
Mr. Satyavir Singh and
Mr. Rizwan, Advs.

versus

**INDIAN INSTITUTE OF PUBLIC ADMINISTRATION AND
ORS.** Respondents

Through : Mr. Ravinder Agarwal, Adv.
for R-1

**CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR**

J U D G M E N T (O R A L)

1. *Ubi jus*, as the hallowed adage goes, *ibi remedium*. For every right, there is a remedy.
2. Equally, however, sans a right, there can be no remedy.
3. Rights in turn, must source their existence to law, not to sympathy. Mercy must always temper, but may never be allowed to triumph, justice.
4. The petitioner is before the court, and is obviously in an advanced stage of pregnancy. This court wishes her, and her unborn

child, the best that life has to offer; but the power to confer that dispensation vests with an authority higher, and greater, than ours. The province of my power is bounded by the borders of the law, and, peregrinating within those boundaries, I can wander only so far, and no farther.

5. I cannot, wish as I might, extend, to the petitioner - who is obviously disconsolate - a benevolence which the law does not extend to her. It is with a sense of reluctance, therefore, that I confess my inability to come to her aid.

6. To proceed, then, to the facts.

7. On 16th August, 2016, the petitioner was appointed as *ad hoc* Research Officer, for a period of three months, in the Dr. Ambedkar Chair in Social Justice, in the Respondent No.1 - Institute i.e. the Indian Institute of Public Administration.

8. The tenure of the petitioner, as Research Officer, was extended periodically; initially by three months till 9th February, 2017 and, thereafter, by six months on each occasion till 9th August, 2017, 9th February, 2018 and 9th August, 2018. During the course of these extensions, her salary was also enhanced. Learned counsel for the petitioner emphatically submits that the repeated extensions of the petitioner's service, and the enhancement of her salary, were on account of the exemplary nature of her performance.

9. The tenure of the petitioner's service, as extended on 1st March, 2018, came to an end on 9th August, 2018. Prior thereto on 3rd August, 2018, the petitioner wrote to the respondent, seeking further extension of her tenure as Research Officer. However, it is contended, in the writ petition, and not disputed by the respondent, that the service of the petitioner was not extended further, beyond 9th August, 2018.

10. It is asserted, in the writ petition, that this decision, not to extend the petitioner's service further beyond 9th August, 2018, was owing to the fact that the petitioner is expecting a child, and the respondent apprehends that she would not be able to discharge her duties properly, as she would require maternity leave etc.

11. There is nothing on record, excepting the averment of the petitioner to this effect, to indicate that non-grant of further extension, to her, as Research Officer, was owing to her pregnancy. Mr. Ravinder Agarwal, learned counsel for the respondent, has on the other hand, handed over, in court, a noting dated 20th July, 2018, which reads thus :

“Dr. Ambedkar Chair in social Justice.

This is to bring to your kind notice the following :

Ms. Vandana Shukla, Research Officer under the Dr. Ambedkar Chair was appointed on August 09, 2016 purely on contract and ad-hoc basis. She was given periodic extension in the past to give an opportunity to learn and improve. However, her performance has not been consistent all through. As her term expires on August 09, 2018, it is recommended that she may not be given further extension.

As we do not have any activities planned for the next two months which being a lean period, we need not advertise for the post of Research Officer immediately. We can think of having a research officer on need basis later on.

Sd/-

(C. Sheela Reddy)

Chair Professor

Dr. Ambedkar chair in Social Justice”

A copy thereof has also been supplied to learned counsel for the petitioner.

12. Mr. Agarwal also seeks to point out that the decision, as contained in the aforementioned noting dated 20th July, 2018, was taken before the petitioner informed the respondent about her pregnancy.

13. On the attention of learned counsel for the petitioner being drawn to this noting, he submits that the petitioner, being a single lady fighting an organisation, such notings could be easily created, so as to defeat the case of the petitioner. He also emphasised the fact that the chaired professor of Dr. Ambedkar Chair in Social Justice, who had entered this noting had herself, a year prior thereto, extended the petitioner’s service and appreciated her work.

14. In exercise of writ jurisdiction, it is not possible for me to enter into this thicket of facts, or to psychoanalyze the opinion, reflected in the noting dated 20th July, 2018. It is a trite position, in law, that an employee, who is employed on *ad hoc* or on tenure basis, extended

from time to time, cannot seek extension of his or her tenure *ad nauseam*, or challenge the decision not to extend his or her tenure after it has come to an end, merely because it had been extended, periodically, in the past.

15. No doubt, if the decision not to extend the tenure is malafide, vitiated by perversity, or is *ex facie* arbitrary on the face of the record, it would attract Articles 14 and 16 of the Constitution of India, and be amenable to judicial review. In the present case, however, there is nothing, on record, which indicates that the decision not to extend the petitioner's tenure beyond 9th August, 2018, was on account of the fact that she was *enciente*. Rather, the noting dated 20th July, 2018, reproduced hereinabove, would unequivocally indicate otherwise.

16. Learned counsel for the petitioner has sought to rely on the judgment of the Supreme Court in ***Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, (2000) 3 SCC 224**. He has drawn my attention to certain observations, contained in para 42 of the said decision, relating to the rights of a woman employee, in a state of advanced pregnancy, not to undertake hard work, etc, as well as certain other observations relating to the requirements of achieving a just social order in view of the provisions contained in the Maternity Benefit Act, 1961.

17. These observations, in my view, are totally irrelevant, insofar as the controversy in issue in the present case is concerned.

18. For the foregoing reasons, this writ petition, which is devoid of merits, is dismissed without any order as to costs.

C.HARI SHANKAR, J

SEPTEMBER 14, 2018/kr

