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

% *Date of Judgment : 6th December, 2019*

+ W.P.(C) 12659/2019

ABHAY KUMAR PANDEY

..... Petitioner

Through Petitioner-in-person.

versus

NATIONAL AIDS CONTROL ORGANIZATION (NACO)

(THROUGH ITS SECRETARY) & ANR Respondents

Through Mr. K.V. Sreemithu, Sr. Panel

Counsel with Mr. Jatin Puniyani, G.P.
for R-2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

G.S. SISTANI, J. (ORAL)

CM APPL. 51705/2019 (exemption)

1. Exemption is allowed subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 12659/2019

3. The present writ petition is directed against order dated 16.04.2019 passed by Central Administrative Tribunal ('Tribunal'), by which an O.A. bearing No.1226/2019 filed by the petitioner stands dismissed.
4. The petitioner joined the respondent organisation on contractual basis on 13.06.2013. After the contract came to an end on 31.03.2014, the same was extended from time-to-time upto 31.03.2016.

5. In relation to the extension of his contract, on 12.01.2016 the petitioner was requested to submit his 'justification for continuation', in advance. In response thereto, the petitioner expressed his disinterest in continuing in service of the respondents and requested the respondents for removing his name from the list of contractual employees. Acting on the reply received from the petitioner, vide order dated 10.02.2016, the respondents accepted the request of the petitioner and terminated the contract in terms of Clause 8 of agreement dated 15.09.2015.
6. Aggrieved by order dated 10.02.2016, the petitioner filed O.A. bearing No.1226/2019 seeking the following reliefs :
- “(a) to declare the Order No. A 110142/2/2010-NACO (A) dated 10.02.2016 and A-11011/13/2018 NACO dated 16.01.2019 (as mentioned in para 1) null and void,*
 - (b) provide the opportunity of hearing against the charges made against my work performance in the O.M. by (constituting) a fair and unbiased committee; as well as*
 - (c) direct the committee to find out the cause of hiding act and continuously denying the facts on wrong fallacy and fix the responsibility.”*
7. The petitioner, who is present in-person, submits that the respondents have prepared an internal note, a copy whereof, obtained by the petitioner under the Right to Information Act, 2005, has been filed at page 101 of the paper book in which there is reference to the petitioner's "non-performance". It is submitted by the petitioner that there was no necessity for preparing such note, when the petitioner had himself categorically informed the respondents that he is not interested

in continuing in service of the respondents “in the present scenario”. It is this internal note with which the petitioner is primarily aggrieved.

8. We have heard the petitioner appearing in-person. We deem it appropriate to reproduce extracts of e-mail dated 15.01.2016 sent by the petitioner to the respondents as also the response of the respondents to that e-mail :

e-mail dated 15.01.2016

“Respected Madam,

Kindly remove my name from the list. I am no more interested in continuing here. You may keep the justification for the post on the basis of Project Appraisal Document (agreement with the World Bank).

As an individual, I am not interested in continuing in the present scenario.

Thanks

Abhay”

Response to e-mail dated 15.01.2016

*“No. A11014/2/2010-NACO (A)
Ministry of Health & Welfare
National AIDS Control Organization*

*9th Floor, Chandralok Building,
36, Janpath, New Delhi -110001*

Dated 10.2.2016

To

*Mr Abhay Kumar Panday
Programme Officer
(Procurement) NACO*

*Sub: Rescission as per clause no. 8 of the Contractual
Service Agreement.*

Sir,

This has reference to your email dated 15th Jan 2016 regarding your unwillingness to continue in NACO. Your request has been considered and the Competent Authority has approved to rescind the Contractual Service Agreement dated 15th June 2015 signed between you and NACO as per clause 8 of the said agreement read with the Department's office No. A11014/2/2010-NACO (HR) dated 15.9.2015.

2. This letter may be treated as a notice of 30 days. You will be relieved the services of NACO on 10th March 2016 (afternoon).

*(Alka Ahuja)
Deputy Secretary”*

9. Since the petitioner is aggrieved by the above-referred internal note, we also deem it appropriate to reproduce the same below :

*“F. No A11014/2/2010-NACO(A)
Sub: Work performance of Sh. Abhay Pandey, PO
(Procurement Specialist).*

PUC is the OM from Director (Finance) regarding non- performance of Sh. Abhay Pandey and for taking necessary action as per the terms and conditions of his contract.

2. It is submitted that Sh. Abhay Pandey vide his email dated 15th January'16 had not given the justification desired for filling the format which was to be send to the Screening Committee instead wrote to HR to remove his name as he is no more interested to continue (copy placed on file).

3. As per clause 8 of the contract service Agreement made on 15th June 2015 between NACO and Mr. Abhay Kumar Pandey and modified vide office order no. A11014/2/2010 — NACO (A) dated 15th September 15 either party can rescind this agreement by giving one month notice period or remuneration in lieu of the notice period.

4. *For reference the last two years performance appraisal forms of Sh. Abhay Pandey are also placed on file.*

5. *Keeping the above in view it is proposed to rescind the agreement dated 15th June 15 by giving one month notice to Sh Abhay Kumar Pandey.*

6. *Para 5 above is submitted for approval.”*

10. In our view, the grievance of the petitioner is baseless, unfounded and somewhat imaginary for the reason that vide communication dated 15.01.2016, the petitioner himself had expressed his disinterest in continuing in service with the respondents in the existing scenario. Any internal note which may have been prepared, was for the record of the respondents and had nothing directly to do with the discontinuation of the contractual employment of the petitioner. We may also note the observations recorded by the Tribunal in para 1, which we reproduce below :

“The facts of this OA reveal as to how the National AIDS Control Organisation has become a victim of harassment by the applicant herein. It also provides an example as to how the Right to Information Act, 2005 which was enacted with the purpose of ensuring transparency in public offices has been put to gross misuse, just on account of the fancy of the applicant herein.”

11. The observations made in the aforesaid order of the Tribunal, in our view, correctly reflect the true nature of the issue. It is apparent that the petitioner is foisting unnecessary litigation upon the respondents on a grievance that is a figment of his imagination.
12. We accordingly find no infirmity in order dated 16.04.2019 passed by the Tribunal, which would require interference by this court in the

present proceedings. No charge has been framed against the petitioner nor is communication dated 10.02.2016 sent to the petitioner in any way stigmatic in nature.

13. Therefore, we are of the opinion that no ground is made-out to entertain the present writ petition.
14. Accordingly, the writ petition is dismissed.

G.S. SISTANI, J

ANUP JAIRAM BHAMBHANI, J

DECEMBER 06, 2019

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