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

+ W.P.(C) 13926/2019 & CM APPL. No. 55798/2019

MR. ZAREEF AHMAD

..... Petitioner

Through: Mr. Akshit Gadhok & Mr. Aman
Asht, Advs.

versus

COUNCIL OF SCIENTIFIC AND INDUSTRIAL RESEARCH AND
ANR.

..... Respondents

Through: Mr. Arun Sanwal, Adv. for R1 & 2.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **06.02.2020**

Challenge in this writ petition is to order dated 20.12.2019, certified copy whereof has not been filed but a typed copy has been handed-up in court.

2. Learned counsel for the petitioner submits that pursuant to the advertisement dated 30.09.2009, petitioner was appointed as Senior Technical Officer (2) (STO) for a period of six months; and that the appointment was extended from time-to-time. While the petitioner contends that he continues to work for the respondents, this contention is disputed by the respondents.

3. An O.A. filed before the Tribunal seeking regularization has been dismissed on two grounds. Firstly, that there is no provision for regularization of an ad-hoc employee for the post of STO; and secondly, that the applicant did not have the prescribed qualification.

4. However, the learned counsel for the petitioner relies upon his appointment letter dated 28.07.2009 which has been filed alongwith the petition. The relevant portions relied upon by the petitioner are reproduced below :

" To,

Shri Zareef Ahmad,
502, VIP Colony,
5th Mile Tadong,
Gangtok, (Sikkim)-737102

Sub:- Offer of appointment on ad-hoc basis for a period of six months, to the Technical post in Group III(5) in the pay band of Rs. 15600-39100(PB-3) with Grade Pay of Rs. 6600/-.

Sir,

I am directed to state that on the recommendations of a high powered Expert Committee, the DG, CSIR has been pleased to accord approval to your appointment to a Technical post in Group III(5) on ad-hoc basis for a period of six months with three advance increments @ 3% in the pay band of Rs. 15600-39100 (PB-3) with Grade Pay of Rs. 6600/- plus usual allowances as admissible under the rules, on the following terms and conditions:

This offer is on an ad-hoc basis. Within a period of six months, CSIR will advertise this position openly and give you an opportunity to apply against this position for permanent appointment in CSIR. In the process, you will have to compete with other candidates who may apply against the open advertisement.

This appointment would not confer any right, claim, explicit or implicit for your automatic regularization/absorption against any CSIR post."

5. Counsel submits that inspite of the express assurance contained in the appointment letter, after 2009 the respondents have taken no serious steps to fill-up the posts. He submits that although in 2013 a post was advertised; no other suitable candidate was available; and yet the petitioner's candidature was not accepted. He submits that he has worked continuously to the satisfaction of the respondents, which is evident from the fact that no disciplinary action has been taken nor his services have been terminated.

6. In the circumstances, petitioner submits that if the post is advertised, petitioner should be given age relaxation for the period for which he has worked with the respondent.

7. After some submissions however, with consent of all parties, we dispose of the matter with a direction to the respondent, that if a post is advertised, the petitioner will be given age relaxation for the period for which he has worked with the respondents. If a representation is made for regularization, that would also be considered by the respondents. However, rejection of such representation would not give rise to a fresh cause of action.

8. The present writ petition and the pending application are disposed of in the above terms.

G.S.SISTANI, J.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 06, 2020/uj
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