

**THE HON'BLE SRI JUSTICE K.C.BHANU
AND**

THE HON'BLE MRS JUSTICE ANIS

-
WRIT PETITION No.3305 OF 2003

ORDER:- (per Hon'ble Sri Justice K.C.Bhanu)

This writ petition is filed challenging the order, dated 10.12.2002, in O.A.No.867 of 2002 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad (for short, "the Tribunal").

2. Petitioner herein/applicant filed the aforementioned Original Application before the Tribunal to declare the Memorandum, dated 29.1.1999, of respondent No.2 followed by letter, dated 2.5.2002/6.5.2002, as illegal and arbitrary, and consequently, direct the respondents herein to treat him as on continuous duty and service, and release salary and allowances as revised from time to time, and also for refund of the deposited amount of Rs.63,000/-, which was illegally collected from him, and accord all consequential and other attendant benefits together with interest and damages.

3. The brief facts that are necessary for disposal of the present writ petition as follows:

The petitioner herein was initially appointed as a Field Assistant by respondent No.2 on adhoc basis on 19.10.1978 and later, appointed as a regular Lab Assistant by proceedings, dated 14.5.1979, of respondent No.2. He was subsequently permitted to proceed to U.S.A. on a fellowship on his own costs for a period of two years by proceedings, dated 26.4.1996, of respondent No.2. Thereafter, he sought for extension for a period of one year, but he was granted

extension for only six months. After completion of six months, he once again, renewed his request for grant of extension for another six months. When the same was not granted, he reported back to duty and was permitted to join duty in January, 1999. He thereafter requested for grant of voluntary retirement by his application, dated 25.1.1999, as suggested by respondent No.2. He was accordingly relieved on 29.1.1999 and he was informed that the pensionary and retirement benefits would be extended to him subject to the order of respondent No.1 as per rules, and in the meantime, he was relieved from the service of the Institute on the afternoon of 29.1.1999. Later, he was communicated a copy of the order, dated 15.3.1999, of respondent No.1 stating that his request for voluntary retirement could be considered only after completion of his twenty years of confirmed service at National Institute of Nutrition (N.I.N.), Hyderabad, as the service rendered by him on adhoc project cannot be counted towards pensionary benefits as was decided by the Council. Respondent No.2 issued Memorandum, dated 18.6.1999, informing him that the Council did not consider his request, as the service rendered by him under the adhoc project from 23.10.1978 to 12.5.1979 cannot be considered for pensionary benefits. In response to the repeated representations made by him, respondent No.2 vide letter, dated 2.5.2002/6.5.2002, informed him that his claim made through letters, dated 28.9.2001 and 27.2.2002, expressing his willingness to rejoin in N.I.N. and serve for a period of 3 ½ months for completing the 20 years of service to enable him to become eligible for voluntary retirement with pensionary benefits, was a time barred one and it cannot be accepted, and accordingly, requested him to apply for his terminal benefits like Leave encashment, G.P.F. accumulation, Group Insurance Money etc. Hence, he filed the aforementioned Original Application before the Tribunal.

4. The Tribunal, upon considering the material on record,

dismissed the aforementioned Original Application. Challenging the same, applicant filed the present writ petition.

5. Learned counsel for the petitioner/applicant contended that on the rejection of the request for voluntary retirement, the petitioner should be deemed to be in service; that respondent No.2 had not issued any order either accepting or rejecting the request made for voluntary retirement as seen from the letter, dated 29.1.1999, and hence, he prays to set aside the impugned order.

6. The petitioner made an application on 25.1.1999 seeking voluntary retirement from the service of the Council, but his request was not considered by the Council, as the service rendered by him under the adhoc project from 23.10.1978 to 12.5.1979 cannot be considered for pensionary and other retirement benefits. The same cannot be said to be contrary to the rules governing the service conditions of the petitioner. Further, the claim of the petitioner to join in N.I.N. and serve for a period of 3 ½ months for completing 20 years of service, is a time barred one. Hence, the Tribunal rightly dismissed the aforementioned Original Application and that order needs no interference by this Court, and the Writ Petition is liable to be dismissed.

7. Accordingly, the Writ Petition is dismissed. There shall be no order as to costs.

8. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE K.C.BHANU

JUSTICE ANIS

Date: 17.9.2014
AMD

THE HON'BLE MRS JUSTICE ANIS

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WRIT PETITION No.3305 OF 2003

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