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

\+ W.P.(C) 6944/2017, CM APPL. 28867/2017, CM APPL. 47091/2018, CM APPL. 21844/2024, CM APPL. 57182/2024

MANISH TANDON .....Petitioner

Through: Mr. Ram Gautam, Advocate.

versus

UNION OF INDIA & ANR. .....Respondents

Through: Mr. Ajay Bhargava, Mr. Aseem Chaturvedi and Mr. Arpit Kumar Singh, Advocates for R-2.
Mr. Rajesh Kumar, SPC with Mr. Yash Narain, Mr. Siddharth Shekhar and Ms. Pragya Yadav, Advocates for R-1.

CORAM:
HON'BLE MR. JUSTICE SANJEEV NARULA

O R D E R

% 03.02.2026

1. This petition under Article 226 of the Constitution challenges the Office Memorandum dated 30th June, 2016 issued by the Ministry of Health and Family Welfare, discontinuing the Petitioner's engagement as "Legal Consultant" in the Reproductive and Child Health[1] Programme/Project of the Ministry of Health and Family Welfare[2]. The Petitioner also seeks a consequential direction for restoration of the contractual engagement and allied reliefs.

2. The Petitioner asserts that Deloitte Touche Tohmatsu India LLP

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[1] "RCH"
[2] "MoHFW"

(Respondent No. 2) engaged him on 12th August, 2010 as a legal consultant for the RCH Programme on contractual basis. The work location was the Ministry's office at Nirman Bhawan, where he reported to and worked under the supervision of the designated reporting officer in the Ministry. The record reveals that the engagement was structured through Deloitte, which was described as the Technical Management and Support Agency for the programme. The initial agreement records that Deloitte had been appointed by DFID to act as the Technical Management and Support Agency for RCH II and that Deloitte desired to engage the Consultant to "provide services to MoHFW under the supervision and instruction of the reporting officer at MoHFW".

3. The initial contract period was defined and time-bound. It provided that the Consultant would render services from 20th August, 2010 to 19th August, 2011, with a provision that renewal could take place only on mutually agreed terms.

4. The Petitioner states that the engagement was renewed from time to time. The last contract relied upon is dated 16th May, 2016, which offered "fixed term employment" for the project assignment, with a fixed tenure "starting from 1st June, 2016 to 30th June, 2016". It further states that, on expiry, the contract "may be renewed on mutually agreed terms by the parties".

5. On 30th June, 2016, the Ministry issued the impugned Office Memorandum. In substance, this Memorandum proceeds on the footing that, in view of the Ministry of Finance, Department of Economic Affairs memoranda dated 29th December, 2015 and 7th January, 2016, consultants who had completed more than three continuous years should not be

continued after 30th June, 2016 from bilateral or multilateral support, and agencies were accordingly asked not to continue such consultants.

Submissions:

6. The Petitioner contends that the discontinuance is illegal and arbitrary. The argument proceeds on several tracks: (i) the Ministry exercised real control over his day-to-day work and he functioned, in effect, as a Ministry resource; (ii) the policy OMs were applied retrospectively and selectively; (iii) the Screening Committee mechanism was not followed; (iv) one contractual resource was replaced by another contractual resource, which is impermissible on the principles stated in ***Secretary, State of Karnataka v. Uma Devi***,[3] and on the reasoning adopted by this Court in ***Narinder Singh Ahuja v. Secretary, MoHFW***[4]; (v) the replacement consultant allegedly did not meet the eligibility criteria; and (vi) the discontinuance was effected without notice and in breach of natural justice.

7. Respondent No. 1 (Union of India through the Ministry) opposes the petition. They contend that: (i) the Petitioner was never engaged by the Ministry and there is no privity of contract; (ii) the engagement was a contractual arrangement routed through Respondent No. 2; (iii) the engagement expired by efflux of time on 30th June, 2016; (iv) the disengagement was a result of a policy decision to discontinue consultants funded from bilateral or multilateral support after completion of the specified tenure, and positions were thereafter filled through an open selection process; (v) the Petitioner participated in that process and failed; and (vi) the petition suffers from delay and is not maintainable in writ

[3] (2006) 4 SCC 1
[4] W.P.(C) 1741/2014

jurisdiction, particularly to enforce contractual rights.

8. Respondent No. 2 submits that it is a private entity not amenable to writ jurisdiction for enforcement of private contractual claims; the Petitioner's relationship was governed by the contract; the last contract was a fixed term contract ending on 30th June, 2016; and the Petitioner seeks, in substance, specific performance of a determinable contract, which is impermissible.

9. The controversy raises the following questions:

(i) whether this Court should exercise writ jurisdiction to grant reinstatement or renewal of a fixed-term contractual engagement routed through a private entity;

(ii) whether the impugned Office Memorandum suffers from such arbitrariness or illegality in public law as would warrant interference; and

(iii) whether any enforceable right survives in favour of the Petitioner after expiry of the last fixed-term contract.

ANALYSIS AND FINDINGS:

10. The starting point is the nature of the Petitioner's engagement. The contemporaneous documents do not support an appointment by the Ministry. They support a contractual engagement by Deloitte for deployment in a project of the Ministry. The initial agreement describes Deloitte as having been appointed by DFID as the programme support agency and records that Deloitte engaged the Consultant to provide services to MoHFW under supervision of the reporting officer at MoHFW. The agreement fixes a contract period and contemplates renewal only by mutual agreement.

11. The contractual framework is also explicit on the legal relationship. The agreement states that the Consultant would be an "independent

contractor”, and that nothing in the agreement would be construed to make him an employee of Deloitte.

12. The termination clause permitted Deloitte to terminate the agreement by one month’s written notice or by paying one month consultancy fee in lieu thereof. The last offer letter (16th May, 2016) is even more direct in its terms. It describes a “fixed term employment” for a fixed tenure “from 1st June, 2016 to 30th June, 2016”. It reiterates that renewal is not automatic and could happen only if the parties mutually agree. It also records that the Project Associate would support MoHFW and work under the direction and supervision of the reporting officer at MoHFW.

13. These clauses are pertinent for two reasons. First, they defeat the foundational premise of the writ relief sought, namely that a continuing right to employment exists in public law. Second, they show that the Petitioner entered into a contractual relationship where time was the core feature, and renewal was expressly left to mutual consent.

14. In service jurisprudence, courts do not convert a fixed-term contract into a continuing appointment through writ of mandamus. A fixed-term contract expires by efflux of time, and non-renewal does not, by itself, attract the incidents of punitive termination. On the Petitioner’s own case, the last contract ended on 30th June, 2016. Once that date passed without renewal, no subsisting contract remained to be “restored” through writ. The Petitioner attempts to shift the case from contract to public employment by emphasising supervision and control by the Ministry. That supervision is not denied in the documents, but it does not carry the legal consequence the Petitioner seeks to attach to it. The documents themselves explain why supervision existed. Deloitte’s engagement was for programme support; the

Petitioner's tasks were to be performed within the Ministry environment and were to be aligned with the needs of the programme. It is consistent with the structure of such engagements that the work would be monitored by the beneficiary department. That does not rewrite the employer-employee relationship, particularly where the contract specifically stipulates the engagement as a contractual deployment routed through the support agency and limit renewal on mutual agreement.

15. The Petitioner's reliance on an RTI reply to argue that there was "no approval" by a particular Section for providing services to Deloitte does not advance the relief sought in these proceedings. The RTI response, even if accepted at face value, raises questions of internal approvals and inter-departmental record. It does not, without more, establish that the Petitioner became a government employee, nor does it create a right to reinstatement after expiry of a fixed-term contract. In any case, this line of argument would require adjudication of disputed facts on internal arrangements and administrative approvals, which a writ court ordinarily does not undertake while deciding a claim framed as one for reinstatement.

16. On maintainability, a writ court can, in an appropriate case, examine State action even in a contractual dispute when a clear public law element is shown. However, that principle does not mean that every contractual grievance morphs into a writ cause. The relief claimed here is, in essence, a direction for continuation or restoration of a contractual engagement and a challenge to non-renewal. The dispute, in substance, is contractual.

17. Even on the Petitioner's showing, two pertinent features stand out. The contract expressly left renewal to mutual agreement. The contract also remained determinable, with the employer retaining wide termination rights.

In such a situation, the writ remedy is not appropriate to grant reinstatement or specific performance.

18. The Petitioner's case on "natural justice" also does not fit the factual situation. The impugned Office Memorandum was issued on the date the last fixed term ended. The Petitioner was, at that stage, on a contract that ended by efflux of time on 30th June, 2016. When the relationship ends because the agreed term ends, the argument of pre-decisional hearing does not arise in the same way as it would in a case of stigma, punishment, or premature termination of a subsisting tenure. Here, the tenure itself was one month.

19. The challenge to the Office Memoranda dated 29th December, 2015 and 7th January, 2016 also does not advance the Petitioner's case. The memoranda reflect a policy decision of the Central Government that consultants funded through bilateral or multilateral support, who had completed a specified continuous tenure, ought not to be continued beyond 30th June, 2016. Such a tenure-based rationalisation of externally funded engagements falls squarely within executive policy domain. The Petitioner has not demonstrated that the policy is *ultra vires* any statutory provision, discriminatory on its face, or targeted at him individually. The fact that the policy takes into account past duration of engagement does not render it retrospective in the legal sense. It merely uses tenure as a criterion for future continuation. Courts exercising writ jurisdiction do not ordinarily substitute their views for that of the executive in matters of administrative restructuring or funding policy, unless manifest arbitrariness or mala fides are established, which are absent here.

20. The Court also cannot overlook the consequence that would entail in case the Petitioner's case is accepted. A direction to "restore" the

engagement would amount to compelling a contract relationship to continue despite express contractual terms, and despite the asserted policy decision of the Government to restructure and fill positions through a new process. Public law review does not travel that far.

21. The "replacement by another contractual employee" argument is also devoid of merit. In ***Uma Devi***, the Supreme Court reiterated that courts should not become a route for backdoor entry into public employment and stressed adherence to constitutional requirements of equality in public recruitment. The observation that one ad hoc employee should not be replaced by another ad hoc employee was made in the context of Government appointments and the need to avoid arbitrary engagement practices while still maintaining the primacy of regular recruitment. In the present case, the Petitioner was not a government appointee. His engagement was routed through a project support agency. The Government states that the discontinuance was part of a larger policy shift, and that positions were thereafter advertised and filled through an open selection process. The Petitioner's own pleadings indicate that he applied in that process and did not succeed. A writ of reinstatement in these circumstances would cut across the logic and reasoning articulated in ***Uma Devi***. It would reinstate a person not selected through the later open process and would effectively compel continuation of an expired fixed-term contract.

22. The reliance placed on ***Narinder Singh Ahuja*** is misplaced. In that case, the petitioners were directly engaged in the governmental project framework, and the contractual structure itself contemplated annual renewal co-terminus with the project. Their discontinuance was occasioned solely by a decision to outsource the same work to another set of contractual

employees, despite continuation of the project and funding. In the present case, the Petitioner was not directly engaged by the Ministry but was contractually deployed through a private programme support agency. The operative agreement dated 16th May, 2016 was a fixed-term engagement for one month, expressly renewable only by mutual consent. The discontinuance followed a tenure-based policy decision, and the positions were thereafter subjected to an open selection process in which the Petitioner participated but did not succeed. The contractual and institutional matrix is therefore materially distinct.

23. The allegation that the replacement consultant did not meet eligibility criteria also does not assist the Petitioner in obtaining the relief claimed in this petition. The Petition is framed as a challenge to discontinuance of the Petitioner. It is not framed as a focused challenge to a specific selection process with the selected candidate impleaded on personal grounds. Moreover, even assuming that the Petitioner were correct on the issue of eligibility, that would not revive an expired contract or create a right to reinstatement.

Conclusion:

24. The Petitioner's engagement, including the last engagement, was contractual and fixed-term. It ended by efflux of time on 30th June, 2016. The contract contemplated renewal only on mutually agreed terms. No enforceable right survives to claim renewal or reinstatement through a writ. The impugned Office Memorandum, viewed in context, reflects a policy-driven discontinuance of a class of engagements linked to bilateral or multilateral support and does not furnish a sustainable basis to issue a writ of mandamus to restore a contractual engagement that has long since lapsed.

25. The writ petition is, accordingly, dismissed. Pending applications, if any, also stand disposed of. No order as to costs.

SANJEEV NARULA, J

FEBRUARY 3, 2026/*hc*