

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA No. 442/2015

HYDERABAD, this the 15th day of December, 2021

Hon'ble Mr. Ashish Kalia, Judl. Member

Hon'ble Mr. B.V. Sudhakar, Admn. Member



K. Mallesh, S/o. Late K. Gandaiah,
Aged about 37 years, Occ: Skilled Worker,
National Institute of Nutrition,
Jamai Osmania Post, Hyderabad-7,
R/o. H.No.9-6-99/28, Street No.1,
East Maruthinagar, Champapet,
Hyderabad- 500 059.

... Applicant.

(By Advocate : Dr. A Raghu Kumar)

Vs.

1. Union of India rep by Director General,
Indian Council of Medical Research,
Ramalingaswamy Building, Ansarinagar,
New Delhi.
2. The Director Incharge,
National Institute of Nutrition,
(Indian Council of Medical Research),
Jamai Osmania, Hyderabad- 500 007.
3. The Senior Administrative Officer,
National Institute of Nutrition,
(Indian Council of Medical Research),
Jamai Osmania, Hyderabad- 500 007.
4. Y.Nageshwara Rao, S/o V.Mohan,
Aged about 33 years, Occ: LDC,
National Institute of Nutrition,
Jamai Osmania Post, Hyderabad- 7.
5. Bommasani Kumar, S/o. B. Giddaiah,
Aged about 34years, Occ: LDC,
National Institute of Nutrition,
Jamai Osmania Post, Hyderabad- 7.
6. K. Vijaya Venkata Krishna, S/o/ K. Srihari Rao,
Aged about 34 years, Occ: LDC,
National Institute of Nutrition,

Jamai Osmania Post, Hyderabad- 7.

7. Vemavarapu Jayarani, D/o. V. Hanumaiah,
Aged about 31 years, Occ: LDC,
National Institute of Nutrition,
Jamai Osmania Post, Hyderabad- 7.

... Respondents.



(By Advocate: Mr. B N Sharma, SC for NIN)

Mr. KRKV Prasad for Respondent Nos.4 to 7.)

ORAL ORDER
(As per Hon'ble Mr. Ashish Kalia, Judl. Member)

Through Video Conferencing:

This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“That this Hon'ble Tribunal may be pleased to call for the records pertaining to the 2nd respondent Lr.No.NIN/Pers/Appt/2014-15/2324 dt. 02.03.2015, Lr.No.NIN/Pers/Appt/2014-15/2323 dt. 02.03.2015, Lr.No.NIN/Pers/Appt/2014-15/2327 dt. 02.03.2015 and Lr.No.NIN/Pers/Appt/2014-15/2325 dt. 02.03.2015 and quash and set aside the same as illegal, arbitrary, violative of Article 14 & 16 of the Constitution of India and rule of reservation, recruitment rules and on extraneous considerations and consequently direct the respondents to reconsider the issue and provide opportunity to the applicant for participating in the selection process for the post of LDC on regular basis in preference to the 4th to 7th respondents with all consequential benefits in the interest of justice and be pleased to pass such other order or orders as this Hon'ble Court deem fit and proper in the circumstances of the case.”

2. The brief facts of the case are that pursuance to the advertisement issued by the respondents in the Hindu News Paper on 23.08.2009 for several posts including the post of Upper Division Clerk(UR-3), the applicant has appeared for walk-in-interview and was selected to the post of UDC against the UR category with a



consolidated pay of Rs. 8,865/- per month for a period of one year. The applicant was subsequently appointed on adhoc basis and the period was extended for six months w.e.f. 01.04.2011 with a consolidated pay of Rs.13,284/-. Vide Memo dt. 21.09.2011, the applicant was informed that he has been downgraded to the post of LDC on adhoc basis. The applicant accepted his downgrading to LDC with a hope that his experience would count for regular appointment at any point of time in future, if regular vacancies are announced. The respondents further extended his services as LDC on adhoc basis upto 31.03.2012. Vide notification in the Deccan Chronicle dt. 27.03.2010, the respondents issued an advertisement for the post of Computer Assistant and other posts in National Nutrition Monitoring Bureau(NNMB), a project of NIN. The applicant and the private respondents were selected in the said Project for a period of one year with further extensions. Later on, the Respondent No.1 decided to close all the 16 Centres and Laboratories and also directed to terminate the services of all the staff. Vide Order dt. 03.03.2015, it was decided to create supernumerary posts for those staff who have completed service of more than 10 years for using their services in a project, which was recommended by Expert Review Committee. The staff of existing NNMB who worked for short duration were directed to be considered for fresh contract in other adhoc projects. It is submitted that the Respondent No.1 published revised recruitment rules for the post of LDC vide letter dt. 25.06.2013 and offered appointment to the post of LDCs to Respondent Nos.4 to 7. It is submitted that the applicant joined the department much prior to



respondent Nos.4 to 7 and he has not even been informed about the selection process to participate. No open notification was issued and the selection was conducted secretly, violating the public policy of the Government in respect of rule of reservation and transparency. It is further submitted that the applicant being the senior most adhoc employee should have been given the opportunity of participating in the selection process and denial of the same is illegal and arbitrary. The applicant prayed for quashing and setting aside of 02.03.2015 and seeking regularisation.

3. Notices were issued. The respondents have filed reply. It is submitted that, on expiry of the engagement of the applicant at the institute on 31.03.2012, the applicant engaged as a Skilled Worker(Clerical) by the Manpower Supply Contractor at the Institute upto 30.06.2015 which is being questioned in the present Original Application and the applicant prayed to set aside the irregular appointments of Respondent No.4 to 7 as LDC in the Institute. The respondents further submitted that, in view of the complaints/allegations received by the 1st Respondent regarding regularization of the services of the four project contract employees, an enquiry was ordered by the 1st Respondent into the appointment of LDC in the 2nd Respondent Institute. Based on the enquiry report, the 1st Respondent directed to cancel all such appointments with immediate effect from 06.10.2015. Challenging the said cancellation of appointment orders, the Respondent No.4 & 7 have also filed OA Nos. 1415/2015 & 1416/2015 before this Tribunal and the same are

pending for adjudication. The respondents submitted that the present OA has no merits and the same is liable to be rejected.

4. Heard both the counsels for the parties at length and perused the pleadings on record.



5. The Hon'ble Supreme Court in the case of **State of Himachal Pradesh Vs. Ashwani Kumar & Ors. [1996 AIR 960]** decided on **03.01.1996** held as under:

“It is seen that when the project is completed and closed due to non-availability of funds, consequently, the employees have to go along with the closed project. The High Court was not right in giving the direction to regularise them or to continue them in other places. No vested right is created in temporary employment. Directions cannot be given to regularise their services in the absence of any existing vacancies nor directions be given to create posts by the State to a non-existent establishment. The Court would adopt pragmatic approach in giving directions.”

Further, in the case of **Jawaharlal Nehru Krishi Vishwa Vidyalaya, Jabalpur, M.P. Vs. Bal Kishan Soni & Ors. [1997 5 SCC 86]** decided on **07.04.1997**, the Honb'le Supreme Court has held as under:

“It is not in dispute that the Scheme is sponsored by Indian Council of Agricultural Research and, therefore, permanent posts cannot be created. The posts are co-terminus with the scheme. On abolition of the Scheme, posts also necessarily stand abolished.”

6. After considering the rival contentions of the case, the short issue raised in the present Original Application is whether the applicant is entitled for regularisation or not. The applicant is working on contract basis through a contractor and as per the terms of appointment, he has no legal right whatsoever for regularisation.

7. At this stage, learned counsel for the applicant has submitted that the applicant may be allowed to continue on a similar basis, if respondents require his services in future. We find nothing wrong in it. In case the respondents have to engage the services of the applicant, they should give preference to the applicant in comparison with juniors and outsiders, if he is otherwise suitable.



8. With the above observation, the OA is disposed of. No order as to costs.

(B.V. SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

/Ram/