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

Reserved on: 16.06.2023
Date of decision: 30.06.2023

+ W.P.(C) 8487/2023, CM APPL. 32341/2023, CM APPL. 32343/2023
CM APPL. 32342/2023

DR. GEETA OBEROI Petitioner

Through: Mr. Anand Grover, Sr. Adv. with Ms.
Gauri Puri, Ms. Aditi Gupta, Mr.
Paras Nath Singh, Advs.

versus

NATIONAL JUDICIAL ACADEMY Respondent

Through: Mr. Balbir Singh, ASG with Mr. Ravi
Prakash, CGSC with Mr. Farman Ali,
Mr. Aman Rewaria, Mr. Y. Shukla,
Mr. Naman Tandon, Mr. Shyam
Gopal, Mr. Prasanjeet Mohapatra,
Ms. Usha Jamnal, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

: **JASMEET SINGH, J**

1. This is a petition seeking the following substantial prayers:

- “a) Pass an appropriate Writ, Order, directions or any other writ, order or direction calling for the records of the case and after going through the same quash and set aside the Impugned Order dated 22.05.2023 issued by the National Judicial Academy and declare that the same is arbitrary and violative of Articles 14, 16 and 21 of the Constitution of India;*
- b) Pass an appropriate Writ, Order, directions or any other writ, order or direction quashing and setting aside the Show Cause Notice dated 01.02.2021;*



c) Pass an appropriate Writ or any other writ order or direction directing the Respondent to renew the contract of service of the Petitioner in the same manner as the renewal of contract of service of the other employees of the Respondent until the age of superannuation;

d) Pass an appropriate Writ or any other writ order or direction directing the Respondent to release all increments withheld and other consequential benefits that have been conferred on other similarly placed employees as the Petitioner;”

2. The petitioner is working at the National Judicial Academy, Bhopal since 2014 as a professor against a sanctioned post pursuant to an advertisement. The advertisement was issued on 11.06.2012 by the Respondent, inviting applications for filling up several vacancies on deputation or contract basis including the post of professor. The petitioner was appointed after following the open selection-cum-merit procedure. The respondent is the National Judicial Academy, Bhopal established under the Societies Registration Act, 1860. It is an independent society and an autonomous body which is fully funded by the Department of Justice, Government of India with an objective of providing training to the judicial officers of the states/union territories.

3. On 30.01.2014, the petitioner was issued a letter requiring her to appear for an interview before the Selection Committee on 01.03.2014 After the interview, vide letter dated 10.04.2014, the petitioner was appointed as a professor for an initial period of 3 years. A contract of service was executed on 17.08.2014.

4. Since there was no director officiating with the respondent, the petitioner vide letter dated 03.11.2014 was also given the responsibility of performing the duties of the Director of the National Judicial Academy till a



new director was appointed.

5. On 28.07.2017 vide Office Order No. 82/17, the contract employment of the Petitioner was extended for a further period of 1-year w.e.f. 08.08.2017. The petitioner's contract was extended again for a period of 3 years w.e.f. from 08.08.2018. A fresh contract of service was executed on 04.08.2018.

6. Clause 5 of the Contract of Service dated 04.08.2018 reads as under:

“..5. (a) Notwithstanding anything herein before contained, the Competent Authority of the Academy shall be empowered to summarily terminate the engagement of the Contract Employee on the ground of misconduct in accordance with the provisions herein after set forth.

(b) The Competent Authority may, when he finds it necessary in the interest of the Academy, suspend the Contract Employee on the ground of misconduct. Thereafter, he shall report it to the next Higher Authority for approval.

(c) The Competent Authority or any officer appointed by him as Enquiry officer shall investigate all matters about the misconduct of the Contract Employee whether he/ she has been suspended or not. The Contract Employee shall be notified in writing of the charges against him and shall be given not less than one week's time, which may be extended on good cause shown by such contract employee, to submit his explanation in writing.

The competent Authority or the Enquiry Officer may hear the Contract Employee and take such evidence as it may consider necessary and submit its report to the next higher authority / competent authority. The Competent Authority may thereafter, determine the continued engagement or the contract Employee where it deems that the misconduct of the Contract Employee deserves to be dealt with in that manner, after it has considered the explanation and the evidence, any, or the report of the Enquiry Officer, if one has been appointed.

(d) Where the termination of the Contract of service on the ground of misconduct is after suspension, the termination of



Contract of service will be from the date as specified by the Competent Authority.

.”

7. On 01.02.2021, a show cause notice was issued to the petitioner with regard to the petitioner's role in obstructing the academy's security personnel or other employees from taking steps for evicting stray dogs from the premises of the academy.

8. The petitioner gave an interim reply to the Show Cause Notice refuting the allegations. The interim reply was followed on 26.02.2021 by a detailed reply. On 08.06.2021, the petitioner wrote a representation to the Hon'ble Executive Committee for seeking a personal hearing on her show cause notice. The Executive Committee however decided that the Petitioner should continue in service till appropriate decision on show cause notice is issued (The Hon'ble chairperson observed “*She may be continued till further orders*”). On 22.05.2023, the petitioner's services were terminated pursuant to a resolution of the Executive Committee dated 13.05.2023. Hence the present petition.

Submissions

9. Mr. Anand Grover, learned senior counsel for the petitioner has argued that the order of the Executive Committee dated 13.05.2023 is based on a wrong premise. The resolution assumes that the Executive Committee in its earlier resolution had “*decided to continue the petitioner's services pending further orders*”.

10. He states that a bare perusal of the office note dated 01.07.2021 (containing the notings of the Executive Committee) shows that the services of the petitioner were decided to be continued till an appropriate decision on



the petitioner's show cause notice is issued. The same has not been done.

11. He further relies on the Clause 5 (supra) of the contract of service dated 04.08.2018 to urge that the petitioner's service can be terminated on ground of misconduct, only after holding due inquiry.

12. The counsel for the Petitioner, has relied upon **K. Ragupathi v. State of U.P., (2022) 6 SCC 346** to substantiate on the part of 'regular appointment.'

“..9. As per the affidavit of the said University, it could thus clearly be seen that, for every vacant post, the said University publishes an open advertisement inviting applications from all the interested candidates. It would further show that the appointments are made only after the candidates are selected by the Selection Committee. It is thus clear that though the nomenclature given to the appointment is contractual, candidates are required to undergo the entire selection process. It could further be seen that as per the affidavit of the said University itself, though the employees are technically appointed on a contractual basis, they get all the benefits and allowances as per the Rules applicable. The affidavit would further show that even according to the said University, for permanency in tenure, their terms and conditions of appointment are identical to those of regularly appointed candidates.

10. It is thus clear that the appellant was appointed after he underwent the entire selection process. Even as per the University, though the appointment shows that it is on a contractual basis, for all the purposes, it is on a regular basis. It could thus be seen that even for the appointment on a contractual basis in the said University, a candidate is required to undergo the entire selection process. Though he is appointed on a contractual basis, his terms and conditions are almost like a regular employee. It will be relevant to note that the Annual Performance Assessment Report (for short “APAR”) of the appellant during the period 2012-2013 show his performance to be outstanding. Every other parameter in his APAR is shown as excellent. With regard



to his integrity, it is mentioned that there is nothing against the appellant adversely reflecting his integrity. It is further stated in his APAR that he enjoys a good reputation and his integrity is good.

14. *It could thus be seen that though the communication of the said University dated 12-8-2014 states that the appellant's contractual period has expired, in the facts of the present case, it would reveal that his services were discontinued on account of the allegation made against him by the Dean of the said University. Since even according to the said University, though the employment was contractual but the employee was entitled to get all the benefits of a regular employee, we find that in the facts of the present case, the appellant's services could not have been terminated without following the principles of natural justice. We therefore find that the present appeal deserves to be allowed on this short ground.*

..”

13. He relies on the above ratio to state that even though the nomenclature of the petitioners appointment is contractual but in view of the fact that the petitioner was appointed pursuant to an advertisement regarding the vacancy for the post of a Professor, for which an interview was conducted, the appointment was akin to a regular appointment.

14. Lastly, Mr. Grover states that the allegations against the petitioner is only regarding feeding of stray dogs and it cannot be by any stretch of imagination be construed as “grave misconduct.”

15. On the other hand, Mr. Balbir Singh, learned ASG has argued that the petitioner was a contractual employee. The last contract of service came to an end on 07.08.2021 and thereafter the petitioner had no subsisting contract.

16. The resolution of the Executive Committee stating that the employment of the petitioner be continued till the appropriate decision is



issued on the show cause notice, was passed when the contract of service of the petitioner was subsisting. Upon the expiry of the contract, the reliance on the resolution is of no relevance.

Observations

17. I have heard learned senior counsels for the parties.
18. In the present case, admittedly, on the date when the show cause notice was issued, the petitioner was governed by the contract of service and hence the respondents were bound to follow the terms and conditions of the contract of service. Since there were allegations of feeding stray dogs which was causing nuisance on the premises of the academy, the respondent issued the show cause notice.
19. The members of the Executive Committee opined that the services of the petitioner should be continued till appropriate decision is taken on the show cause notice, since on that date the petitioner was a contractual employee of the respondent and both petitioner and respondent were governed by the terms and conditions of the contract.
20. Once the contract of service came to an end on 07.08.2021, and was not continued any further, the petitioner cannot be permitted to rely upon the terms and conditions of the said contract.
21. Accordingly, the decision of the Executive Committee of the National Judicial Academy dated 13.05.2023 resolving to continue the services of the petitioner only up to 30.06.2023 and no further, cannot be faulted with. On 13.05.2023 i.e., the date of passing of the impugned resolution there was no contract of service subsisting between the petitioner and the respondent.
22. The argument of the petitioner that the petitioner is akin to a regular employee has not been pleaded in the writ petition. In addition, the operative



portion of the Advertisement dated 11.06.2012 reads as under:

“The incumbent selected for contractual appointment may be considered for regular appointment against sanctioned post, subject to outstanding performance and fulfilling the eligibility criteria as per NJA Recruitment policy.

For further details please visit www.nja.gov.in

Madhyam/60970/2013

REGISTRAR”

23. Hence, as per the advertisement the respondent were looking for Professors to be appointed only on contractual basis and the selection of the petitioner was towards the same only. The petitioner at best could have had legitimate expectation to be considered for regular appointment against a sanctioned post provided her performance was outstanding. Unlike *K. Ragupathi (supra)* where the petitioner therein had “outstanding” Annual Performance Assessment Report, there is nothing on record to show the performance of the petitioner as outstanding. Hence the arguments of the petitioner that her appointment is akin to a regular appointment and her reliance on *K. Ragupathi (supra)* is faulty. Further the termination of the petitioner is on account of expiry of the period of the contract of service, the same is neither stigmatic nor vindictive.

24. For the aforesaid reasons, I am unable to entertain the petition and the same is dismissed.

**JASMEET SINGH, J
(VACATION JUDGE)**

JUNE 30 , 2023/DM

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