

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO. 170/00401-00406/2016

DATED THIS THE 09TH DAY OF AUGUST, 2017

HON'BLE SHRI JUSTICE HARUN-UL-RASHID...MEMBER (J)
HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

1. Dharshan B,
Aged about 29 years,
S/o. J.A. Bhyrappa
Working as Field Investigator
National Sample Survey Organisation
Field Operation Division,
3rd Floor, F Wing,
Kendriya Sadan,
Koramangala,
Bangalor – 560 034.

2. Ganesh V.S.
S/o Viswanath,
Aged about 27 years,
Working as Field Investigator
National Sample Survey Organisation
Southern Regional Office
Shimoga.

3. Chethan Kumar A.N,
S/o Nagaraj
Aged about 29 years,
Working as Field Investigator
National Sample Survey Organisation
Southern Regional Office
Shimoga.

4. Dinesh
S/o Anand Shetty,
Working as Field Investigator
National Sample Survey Organisation
Southern Regional Office
Mangalore.

5. Chidananda M.S
S/o Shekarappa,
Aged about 31 years,
Working as Field Investigator
National Sample Survey Organisation

Southern Regional Office
Mangalore.

6. Madesha M,
S/o Mahadeva
Aged about 26 years,
Working as Field Investigator
National Sample Survey Organisation
Field Operation Division,
3rd Floor, F Wing,
Kendriya Sadan,
Koramangala,
Bangalor – 560 034.

... Applicants

(By Advocate Shri Ranganatha S. Jois)

Vs.

1. The Union of India,
Represented by its Secretary,
Ministry of Statistics and Programme
Implementation,
National Sample Survey Office,
Field Operation Division,
R.K. Puram,
New Delhi – 110 001.

2. The Deputy Director General,
Ministry of Statistics and Programme
Implementation,
National Sample Survey Office,
Regional Office,
Field Operation Division,
3rd Floor, F Wing,
Kendriya Sadan,
Koramangala,
Bangalor – 560 034.

... Respondents

(By Shri S. Prakash Shetty, Senior Panel Counsel)

ORDER (ORAL)

HON'BLE PRASANNA KUMAR PRADHAN, MEMBER (A):

The present OA has been filed seeking the following reliefs:

- i. *Issue such writ or order or direction to the Respondents to continue the services of the applicants as Field Investigators and to regularize their services by holding limited Departmental Examination as proposed by the 1st Respondent; and*

- ii. *Direct the Respondents to extend to the applicants all service benefits of pay scale, increment, leave and other incidental benefits.*

2. The applicants in the present application submit that pursuant to a public notification issued in January, 2013 and going through all selection process they were appointed as Field Investigators on contractual basis (Annexure-A1 to A6). The said contract appointment have been renewed from time to time and the applicants have been subjected to medical fitness. However they were not paid service benefits as available to regular employees. Certain similarly situated persons approached this Tribunal in OA No. 881/2014 and vide order dated 21.12.2015 (Annexure-A7) the service of the applicants was protected to the extent of continuation for one year and till the Staff Selection Commission employees occupy the post. Under similar circumstances in respect of Field Investigators working under the same scheme in Pune and Bombay the Government proposed to regularize their services holding departmental examination as their initial appointment was after public notification and they are fully qualified for the said post. Therefore the applicants are also entitled to similar benefits to be extended to them. Therefore they submit that the applicants are entitled to continuation in service and may be considered for regularization and extension of service benefits.

3. The respondents have filed a reply statement in which they have submitted that the National Sample Survey Office (Field Operations Division) is entrusted to carry out the field work for various surveys in a time bound manner. The collection of data in the field is done by Junior Statistical Officer recruited through Staff Selection Commission. However owing to non-receipt

of requisite number of names through SSC, the respondents had to resort to stop gap arrangement by engaging Field Investigators purely on contract basis as mentioned in the terms and conditions of engagement and on consolidated remuneration. The selection process of the Field Investigators was done in a transparent manner through publication of advertisement and calling for applications from open market and going through selection procedure. The order of engagement on contract basis clearly mentioned that the services rendered in contract basis will not bestow any claim for regularization or further continuation. Hence the question of regularization of the persons serving in contract basis does not arise. The Tribunal in its judgment dated 21.08.2014 in OA No. 787-802/2014 held that the terms of engagement on contractual basis clearly specifies that the engagement is on short term contract basis for field survey without conferring any right or further benefits in terms of regularization or consideration for appointment to any post. They are also paid consolidated amount. Therefore the submission made by the applicants for regularization does not appear to be justified. Therefore the applicants in the present OA who are similarly placed have no claim for regularization of contractual engagement. In OA No. 881-887/2014 which have been referred to by the applicants, there was no direction for regularization of the contractual engagement. Therefore the applicants cannot claim for continuation of contractual service or for regularization.

4. Heard the learned counsel for the parties. The learned counsel for the applicants while reiterating the submission made in the OA says that the applicants have been selected through a process of selection though they have been engaged on contractual and provisional basis. In view of the fact

that they were selected through regular process, they should be continued. He also referred to an order of the Principal Bench in OA No. 1405/2011 and OA No. 1274/2011 wherein vide order dated 21.11.2011 and 04.07.2011 direction was given to the respondents to consider the engagement of the applicant as contractual investigator subject to availability of work in preference of juniors and freshers. He also mentioned that in a case in Mumbai the Tribunal had allowed continuation of the contractual engagement. Therefore he said that the applicants should be continued on contractual basis. Instead of continuing them the department is trying to get manpower through an outsourcing agency which is not correct. Therefore he submitted that the reliefs sought for by the applicants should be considered. The learned counsel for the respondents on the other hand reiterated the arguments put forth in the reply statement and submits that due to non-availability of regular staff from Staff Selection Commission and to carry out the survey work the department had to resort to engagement of persons on provisional and contractual basis on consolidated remuneration. The contracts were only for a period of one year in each term. Therefore the applicants cannot claim the continuation. The present term of the applicants have already been over on 15.07.2017. Further in terms of provisions envisaged in GFR 2017 they have to hire the contractual manpower through outsourcing agency henceforth. Therefore there is no scope for further provisional engagement on contract basis.

5. We have carefully considered the facts of the case and submissions made by either side. It is clearly evident from the records that the engagement of the applicants as Field Investigators in the NSSO was purely on contract

basis and on a consolidated remuneration of Rs.15,000/- only. The engagement order clearly indicate that it is purely provisional. During the hearing it was stated that the present term of engagement of the applicants have already been over in July and they stand relieved. It is the prerogative of the respondents to decide the modality of engagement of manpower for carrying out survey work on a temporary period pending regular appointment by way of selection through Staff Selection Commission. The applicant who had been engaged as Field Investigators on contractual basis cannot demand that they shall have to be continued on provisional engagement basis indefinitely. When a person's service is terminated upon expiry of contract, there is no scope for any direction for any continuation or regularization. Therefore we do not find any merit in the argument of the applicants that their provisional appointment should be continued.

6. Therefore on detailed consideration of facts and circumstances of the case, we hold that the OA is clearly devoid of any merit and is liable to be dismissed. Accordingly the OA is dismissed. No order as to costs.

(PRASANNA KUMAR PRADHAN)
MEMBER (A)

(JUSTICE HARUN-UL-RASHID)
MEMBER (J)