

Yogesh Mahajan vs Prof. R. C. Deka Director All India ... on 31 January, 2018

Equivalent citations: AIR 2018 SUPREME COURT 757, 2018 (3) SCC 218, 2018 LAB. I. C. 1399, AIR 2018 SC (CIV) 2350, (2018) 1 SCT 690, (2018) 1 SCALE 577, (2018) 3 SERVLR 27, (2018) 2 CAL HN 2, (2018) 1 ESC 101, (2018) 157 FACLR 487, (2018) 158 FACLR 182, 2018 (2) KCCR SN 181 (SC), 2018 (6) ADJ 15 NOC

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Bench: Deepak Gupta, Madan B. Lokur

NON-REPORTAB

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION NOS. 22475-22476 OF 2012

Yogesh Mahajan

Versus

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Prof. R.C. Deka, Director,
All India Institute of Medical Sciences

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JUDGMENT

Madan B. Lokur, J.

1. The petitioner who appears in person was initially engaged on a contract basis as a Technical Assistant (ENT) in the All India Institute of Medical Sciences in 1998. The initial contract was for a period of three months, but it was renewed from time to time, without any artificial breaks, on a quarterly or a six monthly basis. It appears that the services of the petitioner were taken on contract basis without following any laid down procedure and without adherence to any rules. The contract of the petitioner was finally extended from 1st January, 2010 to 30th June, 2010.

2. When the contract of the petitioner was not renewed after 30 th June, 2010 he approached the Principal Bench of the Central Administrative Tribunal by filing OA No. 4104 of 2010. The OA was subsequently amended, but the essential prayer of the petitioner was to the effect that the order dated 24th November, 2010 passed by the All India Institute of Medical Sciences, declining to extend his contract ad hoc appointment by a further period of six months ought to be quashed.

3. By its judgement and order dated 25th July, 2011 the Central Administrative Tribunal declined to grant this relief to the petitioner on the ground that he had no right to an extension of his services and further, he had no right to be regularised as a Technical Assistant since his appointment on a contractual basis or on an ad hoc basis was made without following any laid down procedure and without following any rules. In this regard, the Central Administrative Tribunal relied upon the decision of this Court in *Secretary, State of Karnataka v. Uma Devi* (3)¹ The OA was accordingly dismissed.

4. Feeling aggrieved by the decision of the Central Administrative Tribunal, the petitioner preferred a review petition, but that too was dismissed. Eventually, the petitioner preferred a writ petition in the Delhi High Court being W.P. (C) No. 7870 of 2011. The High Court passed a brief order recording that reliance placed by the Central Administrative Tribunal on the decision of this Court in *Uma Devi* was correct. It was also recorded that the learned counsel for the All India Institute of (2006) 4 SCC 1 Medical Sciences had stated that no contract employee in the ENT Department had been granted an extension after 1st January, 2009. In these circumstances the High Court dismissed the writ petition of the petitioner by its order dated 19th December, 2011. The petitioner preferred a review petition in the High Court, but that too was dismissed by an order dated 24th January, 2012. In the circumstances, the petitioner has preferred the present petition.

5. We heard the petitioner, appearing in person, on 17th January, 2018. He submitted that there was no reason why his services were not extended. Even though he had received a favourable recommendation for the continuance of his services. He contended that the decision of the All India Institute of Medical Sciences in not renewing his contract was arbitrary and unjustified. The petitioner also drew our attention to a communication dated 22nd February, 2017 received by him from the All India Institute of Medical Sciences in response to a query made by him under the provisions of the Right to Information Act, 2005. In the communication, it was acknowledged that in May 2016 three persons were appointed to the post of Technical Assistant (ENT) after a walk-in interview. The contention of the petitioner was that under the circumstances, it was clear that the All India Institute of Medical Sciences needed the services of Technical Assistants and therefore there was no reason why his services were not extended.

6. It is settled law that no contract employee has a right to have his or her contract renewed from time to time. That being so, we are in agreement with the Central Administrative Tribunal and the High Court that the petitioner was unable to show any statutory or other right to have his contract extended beyond 30th June, 2010. At best, the petitioner could claim that the concerned authorities should consider extending his contract. We find that in fact due consideration was given to this and in spite of a favourable recommendation having been made, the All India Institute of Medical Sciences did not find it appropriate or necessary to continue with his services on a contractual basis. We do not find any arbitrariness in the view taken by the concerned authorities and therefore reject this contention of the petitioner.

7. We are also in agreement with the view expressed by the Central Administrative Tribunal and the High Court that the petitioner is not entitled to the benefit of the decision of this Court in *Uma Devi*. There is nothing on record to indicate that the appointment of the petitioner on a contractual basis

or on an ad hoc basis was made in accordance with any regular procedure or by following the necessary rules. That being so, no right accrues in favour of the petitioner for regularisation of his services. The decision in Uma Devi does not advance the case of the petitioner.

8. Insofar as the final submission of the petitioner to the effect that some persons were appointed as Technical Assistant (ENT) in May 2016 is concerned, we are of the view that the events of 2016 cannot relate back to the events of 2010 when a decision was taken by the All India Institute of Medical Sciences not to extend the contract of the petitioner. The situation appears to have changed over the last six years and the petitioner cannot take any advantage of the changed situation. There is no material on record to indicate what caused the change in circumstances, and merely because there was a change in circumstances, does not mean that the petitioner is entitled to any benefit. On the other hand, it might have been more appropriate for the petitioner to have participated in the walk-in interview so that he could also be considered for appointment as Technical Assistant (ENT), but he chose not to do so.

9. We find no merit in these petitions and they are accordingly dismissed.

.....J (Madan B. Lokur)J (Deepak Gupta) New Delhi;

January 31, 2018