

Dr. V.L. Chandra And Ors. Etc vs All India Institute Of Medical Sciences ... on 22 March, 1990

Equivalent citations: 1990 SCR (2) 104, 1990 SCC (3) 38, AIR 1990 SUPREME COURT 1670, 1990 (3) SCC 38, 1990 LAB. I. C. 1368, (1990) 1 CURLJ(CCR) 633, (1990) 13 ATC 571, (1990) 1 LAB LN 720, (1990) 41 DLT 29.2, (1990) IJR 280 (SC), (1990) 2 LABLJ 29.2, (1990) 1 JT 515 (SC), (1990) 1 UPLBEC 685, 1990 UJ(SC) 1 600, (1990) 2 SERVLR 430, (1990) 1 CURLR 656, 1990 (1) JT 515, (1990) 60 FACLR 726, 1990 SCC (L&S) 435

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PETITIONER:

DR. V.L. CHANDRA AND ORS. ETC.

Vs.

RESPONDENT:

ALL INDIA INSTITUTE OF MEDICAL SCIENCES AND ORS.

DATE OF JUDGMENT 22/03/1990

BENCH:

MISRA RANGNATH

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MISRA RANGNATH

PUNCHHI, M.M.

RAMASWAMY, K.

CITATION:

1990 SCR (2) 104

1990 SCC (3) 38

JT 1990 (1) 515

1990 SCALE (1) 534

ACT:

All India Institute of Medical Sciences Act, 1956 :
Sections 13 and 14---A. 1. 1. M.S. --Research
Projects--Researchers-- Termination of services on comple-
tion of Project--Scheme to be evolved to build up team of
Researchers to meet general requirements of research--Con-
tinuous Research Projects to be sponsored--Employment to be
provided to the Researchers--Directions issued.

Constitution of India, 1950: Article 32--Researchers
employed by A.I.I.M.S.--Completion of project--Services
terminated--Researchers to be provided employment--Direction
issued.

HEADNOTE:

The Petitioners were employed by the respondent--Institute for carrying out assignments of research projects undertaken by the Institute. The employment of three of the four petitioners was terminated. The petitioners filed Writ Petitions in this Court alleging that they were continuously employed for more than 10-15 years and had reached an age in life where they were no more entitled to enter into Government service or any other suitable employment and, with the deprivation of their employment they were deprived of the source of sustenance and the nation of their useful service, as they had picked up requisite expertise which would be useful in carrying out any normal research project.

In the common affidavit filed on behalf of the respondents, the respondent-Institute stated that the employment was project-wise, and once the project was complete, the job came to an end, and the services of the petitioners were no longer required in the absence of any research project, and that the fortuitous circumstances of continuous engagement did not confer any right on the petitioners to be in continued employment even when no research project was in hand.

Disposing of the petitions, this Court,

HELD: The All India Institute of Medical Sciences set up by 105

statute is intended to carry on research in a continuous way to improve the level of medical knowledge. The Institute is entrusted from time to time with research projects by the World Health Organisation, the Indian Council of Medical Research and other government and semigovernment bodies. Therefore, a scheme should be evolved by the Institute in coordination with the Health Ministry and the Indian Council of Medical Research so that a team of researchers is built up to meet the general requirements of research. Certain projects would quite possibly require specialised hands and on such occasions a special team could be set up on casual basis by drawing the competent hands from different institutions for a period but to keep up the tempo of research if a team of researchers is built up, it would be convenient for the Institute for purposes of discipline and control as also for efficiency. [108B-C]

The Health Ministry must also sponsor continuous research projects in the field of medicine and health and for such purpose several projects should be listed out from time to time and entrusted to the respondent-Institute as also a similar Institute at Chandigarh and to Institutes as and when set up elsewhere. This would assist in updating relevant medial information and knowledge, apart from building up a scientific tone and temper for general circulation. [108D-E]

The Institute should initiate seriously action in this

regard without delay and the Ministry of Health and Indian Council of Medical Research should collaborate with the Institute. [108E]

Since the respondent-Institute has immediately no scope to employ the petitioners, excepting the one already retained, the remaining three petitioners should be provided employment either as Researchers or in any suitable alternative employment until their inclusion in a team of researchers is considered. The Indian Council of Medical Research should take appropriate steps to offer adequate employment to the three petitioners within two months hence. If necessary, the Ministry of Health should cooperate and place adequate funds at the disposal of the Indian Council of Medical Research. [108F-H]

JUDGMENT:

ORIGINAL JURISDICTION: Writ Petition Civil Nos. 999 of 1988 and 1043 of 1989.

(Under Article 32 of the Constitution of India). R.K. Jain, Rakesh K. Khanna, Ms. Sangeeta Mandal, Surya Kant and R.P. Singh, (NP) for the Petitioners.

S. Hegde, Additional Solicitor General, Ms. A. Subhashini, Ms. Uma Jain and R.K. Mehta for the Respondents. The Judgment of the Court was delivered by RANGANATH MISRA, J. Both these are applications under Art. 32 of the Constitution, the first one by three petitioners and the second by one. The respondent All India Institute of Medical Sciences has been set up under a Central Act of that name of 1956. Section 13 of the Act provides the objects of the Institute which are:

"(a) to develop patterns of teaching in undergraduate and post-graduate medical education in all its branches so as to demonstrate a high standard of medical education to all medical colleges and other allied institutions in India; (b) to bring together in one place educational facilities of the highest order for the training of personnel in all important branches of health activity; and (c) to attain self-sufficiency in post-graduate medical education."

Section 14 of the Act lays down the functions of the Institute and, inter alia provides in cls. (a) and (b):

"14. With a view to the promotion of the objects specified under section 13, the Institute may--

(a) provide for undergraduate and post-graduate teaching in the science of modern medicine and other allied sciences including physical and biological sciences;

(b) provide facilities for research in the various branches of such sciences";

Petitioners have alleged that ever since its inception the Institute has taken up various research projects and has made valuable contribution to the updating of medical knowledge and building up coordinated research activity. For the purposes of carrying out such research programme in conjunction with the world Health Organisation, the Indian Council of Medical Research and other celebrated organisations--both national and international--research projects are undertaken by the Institute by employing researchers. For the carrying out of the assignments of research projects the petitioners were employed more than a decade ago and their assertion to the effect that they have continuously worked for more than 10-15 years has not been disputed. Petitioners have also asserted that they have worked to the satisfaction of the authorities and the guides and there is no denial of that fact too. It is the case of the petitioners that by working for such a long period continuously and in different projects under different guides, they have picked up the requisite expertise which would be useful in carrying out any normal research project. Petitioners allege that there is work in the hands of the Institute but petitioners' employment excepting in the case of Dr. Jasbir Kaur Dhawan (Kochhar), petitioner no. 3 in the first writ petition, as Researchers have now been terminated. They contend that having worked for a long period in the Institute they have reached an age in life where they are no more entitled to enter into Government service or any other suitable public employment. While they have gathered the requisite expertise and are useful for the purpose of assisting research programme with the deprivation of their employment and faced with the ban of over age for any public employment they are deprived of the source of sustenance and the nation is deprived of their useful service.

The Institute, the Union of India in the Ministry of Health and the Indian Council of Medical Research have responded to the notice on the petition. A common affidavit has been filed purporting to be on behalf of the respondents by the Director of the Institute. It has been stated therein that the Institute is assigned projects and the Project Guides pick up Researchers depending upon suitability. The employment is project-wise and once the project is complete, the job comes to an end. The fact that there has been continuous engagement available to the petitioners does not change the nature of employment and the fortuitous circumstance of continuity does not confer any right in the petitioners to be continued in employment even when the Institute does not have any research project in hand. It has been specifically pleaded that the services of the petitioners are not required any longer in the absence of any research project with the Institute where their services would be suitable.

The other two respondents being the Union of India and the Indian Council of Medical Research have not filed any counter affidavit of their own. The Institute and the Union of India appeared through separate Advocates at the time of hearing.

Mr. Hegde, learned Additional Solicitor General indicated his sympathy to the cause of the petitioners and took an adjournment from the Court to explore the possibility of offering a solution to the problem and returned to tell us that though there was a human problem, no solution could be worked out. The Institute set up by statute is intended to carry on research in a continuous way to improve the level of medical knowledge. Under the Act the Institute is an autonomous body though the Chairman thereof is no other than the Union Minister of Health. It is true that the Institute is entrusted from time to time with research projects by the World Health Organisation, the Indian

Council of Medical Research and other government and semi-government bodies. It is appropriate that a scheme should be evolved by the Institute in coordination with the Health Ministry and the Indian Council of Medical Research so that a team of researchers is built up to meet the general requirements of research. It is quite possible that certain projects would require specialised hands and on such occasions a special team could be set up on casual basis by drawing the competent hands from different institutions for a period but to keep up the tempo of research if a team of researchers is built up, it would be convenient for the Institute for purposes of discipline and control as also for efficiency. The Health Ministry must also sponsor continuous research projects in the field of medicine and health and for such purpose several projects should be listed out from time to time and entrusted to the respondent Institute as also a similar Institute at Chandigarh and to institutes as and when set up elsewhere. This would assist in updating relevant medical information and knowledge, apart from building up a scientific tone and temper for general circulation. We commend that the Institute initiates seriously action in this regard without delay and we suggest that the Ministry of Health and the Indian Council of Medical Research collaborate with the Institute to work out the same.

Respondent no.3--Indian Council of Medical Research has not chosen to appear separately before us in spite of service of notice. Since we have been told that the respondent-Institute has immediately no scope to employ the petitioners excepting the one that we have named above, we direct that the remaining three petitioners in these two petitions should be provided employment either as Researchers or in any suitable alternative employment until their inclusion in a team of researchers is considered. The Indian Council of Medical Research shall take appropriate steps to offer adequate employment to the three petitioners within two months hence. If the question of funding becomes necessary, we direct the Ministry of Health to cooperate and place adequate funds at the disposal of the Indian Council of Medical Research.

These two petitions are disposed of with the aforesaid directions and without any order for costs, with liberty to the petitioners to apply, with the fond hope that all concerned will appreciate the spirit of the order and implement the direction in the proper way as stipulated.

N.P.V.

Petitions disposed of.