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Central Administrative Tribunal  
Principal Bench

O.A.No.2020/2002

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 17th day of February, 2003

Shri L.K.Mohanty  
Dresser/Plaster Cutter  
Department of Orthopaedics  
Guru Tegh Bahadur Hospital  
Dilshad Garden  
Delhi - 95.

... Applicant

(By Advocate: None)

Vs.

1. Union of India through  
its Secretary  
Department of Personnel  
and Training  
Central Secretariat  
Delhi.
2. Govt. of NCT of Delhi  
through its Chief Secretary  
Naya Sachiwalya  
Indraprasth  
Delhi.
3. Secretary  
Health  
Govt. of Delhi  
Naya Sachiwalya  
Indraprasth  
Delhi.
4. Medical Superintendent  
Guru TEgh Bahadur Hospital  
Dilshad Garden  
Delhi - 95.  
(By Advocate: Sh. Vijay Pandita)

... Respondents

O R D E R (Oral)

By Shri Shanker Raju, M(J):

Applicant, through this OA, has sought the following reliefs:

- "1. To set aside the impugned order of direct contractual recruitment of plaster assistants Annexure-A-1.
2. In consequence to the above relief No.1 to direct the respondents to remove the said six appointees from the service of plaster assistants from immediate effect.

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3. To direct the respondents to consider the case of the applicant for the post of plaster assistant from retrospective effect after completion of his 12 years of service i.e. from 2.2.2000 with seniority and all service and financial benefits from retrospective effect.

4. To direct the respondents not to extend the period of 89 days of the said appointees if they are not removed prior to that."

2. Applicant has further assailed the recruitment of contractual Plaster Assistants with further directions to consider his case for post of Plaster Assistant retrospectively with all consequential benefits.

3. Applicant was appointed as Nursing orderly w.e.f 6.7.1984 by DHS, Delhi Administration and promoted as Dresser/Plaster Cutter, which is a Group 'D' post, w.e.f. 3.2.1988. Respondents have appointed six Plaster Assistants, which are Group 'C' posts, only for 89 days on contractual basis. In so far as the recruitment rules for the post of Plaster Assistants is concerned, the same are still to be framed.

4. None appeared for applicant even on second. As such OA is disposed of under Rule 15 of the CAT (Procedure) Rules, 1987.

5. In the OA, it is contended that the pay scale of Dresser and Plaster Cutter are same and qualifications required for Plaster Cutter is 8th stand passed. There is no experience required for the post of Plaster Cutter. As the applicant had been

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working as Plaster Cutter right from the date of joining and is senior most, he should have been considered for the post of Plaster Assistant. However, his rights have been curtailed as per recruitment rules by engagement of six incumbents on contractual basis for a period of 89 days.

6. In this view of the matter, it is stated that post of Plaster Assistant is a permanent and after 12 years of service applicant is entitled for the upgradation as per 5th CPC. He alleges discrimination and violative of Articles 14 and 16 of the Constitution of India.

7. On the other hand, Shri Vijay Pandita, respondents' counsel strongly rebutting the contentions and stated that reliefs 1, 2 and 4 prayed in the OA have become infructuous as those who have been appointed on contract basis as Plaster Assistants have approached this Court in OA 2444/2002 and by an order dated 9.12.2002, passed by a Division Bench, directions have been issued to consider their cases if regular appointments are made and also continuing them if services of Plaster Assistants are required in GTB Hospital. In pursuance thereof, it is stated that the services of six contractual Plaster Assistants have already been dispensed with.

8. In so far as the relief for consideration for promotion as Plaster Assistant, on completion of 12 years service, is concerned, learned counsel for respondents stated that recruitment rules, annexed with the OA, for Plaster Assistants is pertaining to

ESI Hospitals and recruitment rules for the aforesaid post in GTB Hospital are yet to be framed. Moreover, if the applicant is eligible as per the Recruitment Rules, to be framed, he would be considered to the post of Plaster Assistant as per his eligibility and in accordance with rules on the subject.

9. I have carefully considered the rival contentions of the parties and perused the material on record. As the services of those who have been appointed on contract basis as Plaster Assistants had already been dispensed with, reliefs prayed at Sl. No.1, 2 and 4, for all practical purposes, have rendered infructuous.

10. In so far as the relief 3 for consideration of applicant for the post of Plaster Assistant is concerned, appointments are to be made through Technical Recruitment Committee of the Government, and as the Recruitment Rules annexed is pertains to the ESI Hospital, shall not be applicable to applicant and the recruitment rules for Plaster Assistants are still to be in vogue and are yet to be framed and as stated by the respondents' counsel as and when the recruitment rules are framed, the case of applicant would be considered in the light of the same and subject to his eligibility. With these observations, OA stands disposed of. No costs.

S. Raju

(Shanker Raju)  
Member(J)

/rao/