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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A.2444/2002

New Delhi this the 9th day of December, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).
Hon'ble Shri M.P. Singh, Member (A).

1. Sushil Kumar Sharma,
S/o Shri Mahaveer Sharma,
R/o V-241, Arvind Naggar,
Khajur Wali Gali,
Ghonda, Delhi.
2. Sunil Kumar,
S/o Shri Suresh Kumar,
R/o RZ-18/290, Gali No.5,
West Sagarpur, Geetanjali Park,
Delhi-46.
3. Anil Kumar,
S/o Shri Ranjeet Singh,
Plaster Assistant,
G.T.B. Hospital,
Delhi.
4. Jogindra Singh,
S/o Shri Bhim Singh,
R/o House No. 378-79, Near
Sardar Patel School,
Village Gharoli,
Delhi-96.
5. Ms. Archna Rai,
D/o Shri Harish Chand Rai,
R/o P-18, A-3 Pocket-P,
Dilshad Garden,
Delhi-95.
6. Atibal Singh,
S/o Shri Hari Bhan Singh,
R/o A/4649/134-B,
New Maidan,
Shahdara,
Delhi-32.

... Applicants.

(By Shri R.S. Singh)

Versus

1. Health Secretary,
Department of Health & Family
Welfare,
Govt. of NCT, Delhi,
9th Level, Delhi Secretariat,
I.P. Estate,
New Delhi-110002.

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2. Directorate of Health Services,
Govt. of NCT, Delhi;
through its Director,
Karkardooma,
Delhi.
3. Medical Superintendent,
Guru Teg Bahadur Hospital,
Shahdara,
Delhi. Respondents.

(By Advocate Shri Vijay Pandita)

ORDER

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J).

The six applicants in this application have prayed for the reliefs, as set out in paragraph 8 of the O.A. However, during the hearing, Shri R.S. Singh, learned counsel for the applicants, has submitted that he does not press the prayers in paragraph 8 (a) and (b). With regard to prayer in clause (d) of paragraph 8, he has submitted that while he does not dispute the fact that the respondents can terminate the services of the applicant in accordance with law, for example, for unsatisfactory work or misconduct and so on, their services may not be replaced by other persons appointed on similar basis, that is on contract basis. He has fairly submitted that there would be no objection if the respondents replace their services by persons who are appointed on regular basis under the provisions of law and rules.

2. Learned counsel for the applicants has referred to the Memorandum dated 4.5.2002 issued by the respondents by which the applicants were appointed purely on contract basis for 89 days till the joining of a regular official, whichever is earlier on a consolidated salary in the pay

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scale of Rs.3050-4590 as Plaster Assistants with Respondent No.3/G.T.B. Hospital. He has submitted that the objection of the applicants is that periodically the respondents advertise for recruitment of other persons on similar ~~regular~~ basis which they cannot do. However, he has submitted that if the applicants' services are replaced by regularly appointed persons, they cannot have any grievance. He has relied on the judgements of the Tribunal in similar matters in Lalit Kumar Vimal Vs. Govt. of NCT, Delhi & Ors. (O.A.3113 of 2001 with connected cases), decided on 12.7.2002 (Annexure A-5 to rejoinder).

3. We have seen the reply filed by the respondents and heard Shri Vijay Pandita, learned counsel. One of the main contentions of the learned counsel is that while in the other cases relied upon by the applicants there were recruitment rules, in the present case, for the posts of Plaster Assistants which are Group 'C' posts there are no recruitment rules, even though the posts of Plaster Assistants have been sanctioned in 1995. He has submitted that the applicants have been appointed on contract basis for a period of 89 days or till regular appointments are made, whichever is earlier. To a query made by the Bench, there was no satisfactory explanation by the learned counsel for the respondents, as to why recruitment rules have not so far been framed by the respondents for appointment of Plaster Assistants in the GTB Hospital on regular basis, excepting the fact that these posts are only existing in that particular hospital. He has relied on the

judgements of the Tribunal in Ms. Reena Joseph & Ors. Vs. Govt. of NCT, Delhi & Ors. (OA 3314/2001), decided on 12.12.2001, Ms. Saira Bano Vs. Govt. of NCT, Delhi & Anr. (OA 3244/2001), decided on 8.2.2002 and Ms. Reena Joseph Vs. Govt. of NCT, Delhi & Anr. (OA 676/2002), decided on 12.4.2002, copies placed on record. He has submitted that the Tribunal may not give any directions, as prayed for by the applicants not to discontinue their services because they may not be required and in some cases there are a number of complaints against their work which will require the respondents to take necessary action, in accordance with law and Rules.

5. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties in respect of those reliefs which are now pressed by the learned counsel for the applicants, as mentioned above.

6. Having regard to the facts of this case, the judgement of the Tribunal in Lalit Kumar Vimal's case (supra) is applicable to this case. The office order issued by the respondents in the present case dated 4.5.2002 offering the posts of Plaster Assistants to the applicants purely on contract basis for 89 days, till the date of joining of persons on regular basis, whichever is earlier, is similar to the office order dealt with by the Tribunal in that case. The only major difference is that in the present case, as contended by the learned counsel for the respondents, no recruitment rules have been framed

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and issued by the respondents for reasons best known to them, even though it was submitted that the posts have been sanctioned as far back as 1995 and they had more than seven years to do so. In the circumstances of the case, we see force in the submissions made by Shri R.S. Singh, learned counsel that the services of the applicants may not be terminated, except in accordance with the relevant provisions of law and rules and should not be replaced by other similarly situated persons on contract basis for other periods of say 89 days. If, as contended by the learned counsel for the respondents, there are a number of complaints against some of the applicants for misconduct or their work is unsatisfactory or for any other reason, it is open to the respondents to take such action as they deem fit in accordance with law.

7. In the facts and circumstances of the case, the O.A. partly succeeds and is disposed of with the following directions:

- (i) In case the respondents are considering appointments of candidates on regular basis and the applicants apply against those vacancies, they may be considered along with other eligible candidates, subject to fulfillment of the prescribed eligibility conditions, except giving them age relaxation, if necessary, to the extent of their past service in that post;

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(ii) Till regular appointments are made by the respondents, if the services of Plaster Assistants are required in the G.T.B. Hospital, the applicants may be continued. However, their services can be terminated by the respondents in accordance with the provisions of law and rules.

No order as to costs.

M.P. Singh
(M.P. Singh)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

'SRD'