

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/3482/2019
With

O.A./100/3483/2019
O.A./100/3484/2019
O.A./100/3485/2019
O.A./100/3486/2019
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O.A./100/3497/2019
O.A./100/3498/2019
O.A./100/3499/2019
O.A./100/3500/2019
O.A./100/3501/2019
O.A./100/3502/2019
O.A./100/3503/2019

New Delhi, this the 10th day of February, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

OA No.3482/2019

Dr. Pratibha Arora
Post-Ayurvedic Vaid, Group-A
W/o Shri Gurubachan Lal Arora
Aged about 52 years
R/o C-103, New Jyoti Apartment
Plot No.27, Sector-4
Dwarka, Delhi – 110 078.

OA No.3483/2019

Dr. Vedika Yadav
Post-Ayurvedic, Group-A
W/o Shri Vikas Yadav
Aged about 45 years
R/o 830/P/33, Haibat Pura
Narayani Hospital Gali, Najafgarh
South West Delhi – 110 043.



OA No.3484/2019

Dr. Bhavnesh Dargan
 Post-Ayurvedic Vaid, Group-A
 W/o Shri Ajay Dargan
 Aged about 49 years
 R/o House No.302
 Sector-31, Faridabad, Haryana.

**OA No.3485/2019**

Dr. Ranju Goel
 Post-Ayurvedic Vaid, Group-A
 W/o Shri Manoj Goel
 Aged about 48 years
 R/o Flat No.1083
 Pocket, C-1, Vasant Kunj
 New Delhi – 110 070.

OA No.3486/2019

Dr. Rashmi Anand
 Post-Ayurvedic Vaid, Group-A
 D/o Shri D.K. Sachdeva
 Aged about 44 years
 R/o BE-222, II Floor, Street No.5
 Hari Nagar, Delhi – 110 064.

OA No.3487/2019

Dr. Devender Kumar
 Post-Ayurvedic Vaid, Group-A
 S/o Shri Tara Chand
 Aged about 49 years
 R/o 2/57, Patel Park
 Bahadurgarh
 Jhajjat, Haryana-124507.

OA No.3488/2019

Dr. Shruti
 Post-Ayurvedic Vaid, Group-A
 W/o Shri Pankaj Kumar
 Aged about 48 years
 R/o J-3/76D, Flat No.A-7
 Khirki Extn., Malviya Nagar
 New Delhi – 110 017.

OA No.3489/2019

Dr. Ravi Gogia
 Post-Ayurvedic Vaid, Group-A
 S/o Sh.J.D. Gogia
 Aged about 46 years
 R/o C-124, Vikas Puri
 New Delhi-110 018.

**OA No.3490/2019**

Dr. Seema Syed
 Post-Ayurvedic Vaid, Group-A
 W/o Mr. Nasir Khan
 Aged about 44 years
 R/o R-169/1, Ramesh Park
 Delhi – 110 092.

OA No.3491/2019

Dr. Pawan Kumar
 Post-Ayurvedic Vaid, Group-A
 S/o J.S. Verma
 Aged about 49 years
 R/o RZ-88/345, Gali No.12
 Mohan Nagar, Pankha Road,
 Delhi – 110 046.

OA No.3496/2019

Dr. Vandana Lamba
 Post-Ayurvedic Vaid, Group-A
 W/o Dr. Sushil Kumar Lamba
 Aged about 46 years
 R/o Flat No.531, Royal Residency Society
 Plot No.5, Dwarka, Sector-9, Delhi-110 075.

OA No.3497/2019

Dr. Aparna Sharma
 Post-Ayurvedic Vaid, Group-A
 W/o Dr. Rajeev Sharma
 Aged about 49 years
 R/o C-2A/110, Janakpuri
 New Delhi – 110 058.

OA No.3498/2019

Dr. Rachna Srivastava
 Post-Ayurvedic Vaid, Group-A
 W/o Shri Mahendra
 Aged about 52 years
 R/o D-64 B, Sector-26
 Noida-201301, Uttar Pradesh.

**OA No.3499/2019**

Dr. Saroj Bala
 Post-Ayurvedic Vaid, Group-A
 W/o Shri Tilak Raj
 Aged about 44 years
 R/o Flat No.10/71, I Floor Front Side
 Subhash Nagar, West Delhi-110 027.

OA No.3500/2019

Dr. Kamlesh Singla
 Post-Ayurvedic Vaid, Group-A
 W/o Dr. Ajit Kumar Singla
 Aged about 51 years
 R/o Flat No.1, Type 4
 DCP South Office Complex
 Hauz Khas, New Delhi – 110 016.

OA No.3501/2019

Dr. Deepak Samnhotra
 Post-Ayurvedic Vaid, Group-A
 S/o Dr. Dev Raj
 Aged about 49 years
 R/o 869, Sector-15/II
 Gurgaon-122001, Haryana.

OA No.3502/2019

Dr. Aarti Dagar
 Post-Ayurvedic Vaid, Group-A
 W/o Dr. Mukul Dagar
 Aged about 40 years
 R/o House No.515, Main Surakhpur Road
 Gopal Nagar, Najafgarh
 Delhi-110 043.

OA No.3503/2019

Dr. Vimla Sharma
 Post-Ayurvedic Vaid, Group-A
 W/o Dr. Naresh Kumar Bhardwaj
 Aged about 45 years
 R/o 3220/C Chander Lok
 DLF Phase 4, Gurugram-122009.



(By Advocates: Shri Sanjoy Ghose, Shri Rhishabh Jetley and
 Shri Babu Ram)

Versus

South Delhi Municipal Corporation
 Through its Commissioner
 Dr. S.P.M. Civic Centre, Minto Road
 New Delhi – 100 002. Respondents

(By Advocate: Shri D.S. Mahendru)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

In this batch of OAs, common question of fact and law are involved. Hence, they are disposed of through this common order.

2. Respondent Municipal Corporation issued an advertisement on 18.10.2000, inviting applications for appointment of Ayurvedic Vaid, Unani Hakim, Homeopathy Physician and Dental Surgeon on a consolidated pay of Rs.10,000/- per month, on contractual basis for a period of six months. It was also mentioned that the posts have already been notified to the Union Public Service Commission (UPSC).



3. The applicants responded to the advertisement and are said to have been appointed as Ayurvedic Vaidas. It is also stated that the appointments made in the year 2001 are being renewed from time to time with the interval of six months.

4. In this batch of OAs, the applicants seek a direction to the respondents to regularize their services as Medical Officer (Ayurveda) from the date of appointment or, in the alternative, direct the respondents to regularize them with effect from the date from which this Court may consider fair and just or, in alternative to that, to frame a Scheme for regularization of the applicants in a time bound manner. Prayer is also made for payment of salary on par with the regular counterparts of the applicants including increments in accordance with the matrix of the 7th Pay Commission.

5. The applicants contend that they have rendered unblemished service for the past 13 to 18 years and though the service rendered by them is on par with regularly appointed Ayurvedic doctors, they are being paid consolidated pay. Placing reliance upon the judgments rendered by various Courts, the applicants seek relief in the form of direction to the respondents to regularise their service or to frame a Scheme.

6. Notice was issued in the OA on 4.12.2019 and the learned counsel for the respondents sought time to obtain



instructions. Today, learned counsel for the respondents has placed before us, copy of an order in Writ Petition No.4787-4823/2004 filed by many of the applicants herein before the Hon'ble High Court of Delhi. In its order dated 26.04.2004, the Hon'ble High Court declined the relief of regularization of service but directed that whenever the selection process takes place, the petitioners shall be extended the benefit of relaxation in age limit to the extent of service rendered by them, and they shall not be replaced by another set of contractual employees.

7. Learned counsel for the respondents submits that the present OAs are barred by *res judicata* and the applicants are not entitled to seek the same relief once again.

8. We heard Shri Sanjoy Ghose, for the applicants and Shri D.S. Mahendru, for the respondents.

9. The appointment of the applicants in the year 2001 was not through regular process of selection. It was in response to a notice issued for stop gap arrangement. It was clearly mentioned in the notice that the appointment shall be for a period of six months and that the notification for regular appointment has already been issued by the UPSC.

10. In the orders of appointment issued to the applicants, it was clearly mentioned that it was on consolidated pay and for a period of six months. It is true that the applicants are being continued from time to time. The fact, however,



remains that their plea for regularization of service, raised in a batch of Writ Petitions, was not accepted by the Hon'ble High Court of Delhi. The relief granted therein was limited to relaxation in age to participate in the selection process and that they shall not be replaced by another set of contractual employees. In case, they were not satisfied with the relief granted by the High Court, they were expected to pursue the remedy before the Hon'ble Supreme Court. If, on the other hand, the applicants are not extended the benefit granted by the High Court, they had to pursue remedy in accordance with law. This batch of OAs is not maintainable and is barred by *res judicata*.

11. Even otherwise, the prayer for regularization cannot be considered in view of the judgment of the Hon'ble Supreme Court in **Secretary, State of Karnataka and others** Vs. **Umadevi and others**, 2006 (4) SCC 1. Though prayer is made for framing of a Scheme, as observed in Umadevi's case (*supra*), it is for the respondents to frame such a Scheme in case regular appointment has not been made.

12. We do not find any merit in the OAs. They are, therefore, dismissed. We, however, make it clear that the applicants shall not be replaced by another set of contractual employees, if they are in employment. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman