

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2049/2001

New Delhi, this the 11th day of April, 2002

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

1. Mrs. N.K. Ammini
Working in Malaria Research Centre (ICMR)
22, Sham Nath Marg, Delhi-110054.
2. Mrs. Prem Singh
Working in Malaria Research Centre (ICMR)
22, Sham Nath Marg, Delhi-110054.
3. R.N. Yadav,
Laxmi Tower,
C-1/3, Azadpur, Delhi-110033.
4. Ramesh Chander
Working in Malaria Research Centre (ICMR)
Shahjahanpur IDVC,
Shahjahanpur (U.P.).Applicants
(By Advocate : Shri C.N. Sreekumar)

- versus -

1. Union of India
through the Secretary,
Ministry of Health and Family Welfare,
Government of India,
Nirman Bhavan,
New Delhi-110001.
2. Indian Council of Medical Research (ICMR)
Through its Director General,
Ansari Nagar,
New Delhi-110029.
3. National Institute of Communicable Diseases
(NICD)
through its Director,
22, Sham Nath Marg,
Delhi-110054.
4. Malaria Research Centre (MRC)
through its Director
22, Sham Nath Marg,
Delhi-110054.Respondents
(By Advocates : Shri M.M. Sudan, for R-1 and R-3)
Shri Shanker Anand, proxy counsel for
Shri V.K. Rao, for R-2 and R-4)

ORDER (ORAL)

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

This application has been filed by four
applicants seeking 4 directions to Respondent Nos.2

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and 4 to regularise their services with effect from the dates they joined the National Institute of Communicable Diseases (NICR) with all consequential benefits, viz., continuity of service, appropriate pay scales and other service benefits, including promotions/pension etc. and also the costs of the proceedings.

2. When the case was taken up for final hearing today, which was listed at Sl. No.7 in the cause-list, we have heard Shri C.N. Sreekumar, learned counsel for applicants, ^{and 18/} Shri M.M. Sudan, learned counsel for Respondent Nos.1 and 3. Shri Shankar Anand, learned proxy counsel for Shri V.K. Rao, learned counsel for Respondent Nos.2 and 4, seeks an adjournment to study the case. In the circumstances of the present case, we do not consider it to be reasonable. Hence, it is rejected. However, we have carefully perused the pleadings and documents on record and accordingly proceed to pass the order on merits.

3. Shri C.N. Sreekumar, learned counsel has drawn our attention to the judgements and orders of the Hon'ble Supreme Court dated 8.4.1987 and 14.8.1987 (copy of the latter place on record) in WP No.5856-57 of 1985. The operative portion of the Hon'ble Apex Court's judgements and orders dated 8.4.1987 and 14.8.1987 reads as follows :-

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8.4.1987

"The respondents are directed to prepare a scheme within four months from today for the absorption of the 78 petitioners. The Orders of stay granted by this Court will continue to be in force. We are told that the services of seven petitioners have already been terminated. These seven petitioners may be accommodated in some suitable posts pending hearing of the Writ Petitions finally. The matter may be reported to us within two weeks from today."

14.8.1987

"In the counter affidavit the respondents have assured us that the petitioners will be absorbed in suitable posts. We accept the assurance and give a direction that the petitioners will also be entitled to continuity of service from the date of their initial employment."

4. From the written statement filed on behalf of Respondent Nos.1 and 3 on 21.2.2002, it is noted that in compliance of the aforesaid orders of the Hon'ble Supreme Court, all the petitioners absorbed under NICD in pursuance of the Hon'ble Supreme Court's order dated 14.8.1987, have been regularized from the dates of their absorption and their services have also been counted for pensionary benefits from the dates of their initial appointment vide Directorate of G.H.S.'s

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order dated 26.12.2001. It is further noted with regard to Respondent Nos.2 and 4 that these respondents state that they have to regularise the services of the applicants and take up the matter for counting the past services with Respondent No.1/Ministry of Health and Family Welfare, which apparently they have not done so far. They have also categorically stated in their reply that all the petitioners of the aforesaid W.P.s before the Hon'ble Supreme Court, who were absorbed in NICD, have been regularised and their past services have been counted. They have further stated that responsibility for grant of regularisation and continuity of past services to the applicants in the present OA rests with ICMR, which was one of the respondents in W.P.No.5856-57 of 1985 before the Hon'ble Supreme Court. The applicants have also filed a list of petitioners in W.P. No.5856-57 of 1985 who were before the Hon'ble Supreme Court. Learned counsel for applicants has pointed out that the present applicants are at Sl. Nos.10, 4, 13 and 20, respectively in the aforesaid list, which fact is not disputed by the respondent Nos. 1 and 3 in their reply.

5. During the course of hearing, Shri Shankar Anand, learned proxy counsel for Respondent Nos.2 and 4 has made a faint submission that the Tribunal cannot direct respondent Nos. 2 and 4 to take similar actions as have been done by the Respondent Nos.1 and 3 in the present case.

6. It is relevant to note that the Govt. of India, DOP&T in exercise of the powers conferred under Section 14 (2) of the Administrative Tribunals Act, 1985 has issued a Notification dated 17.12.1998. By this Notification Respondent No.2, i.e., ICMR, which has been given in the list at Sl. No.36, has been brought within the jurisdiction of this Tribunal, which came into effect from 1.1.1999.

7. The main thrust of the prayers of the applicants in the present OA is that their services should be regularised with effect from the date(s) they joined NICD with all consequential benefits and, in particular, continuity of service for the purpose of pay scales and other service benefits, which have been given to those petitioners who were before the Hon'ble Supreme Court and who were absorbed in NICD. In the facts and circumstances of the case, in compliance with the Hon'ble Supreme Court's judgements and orders dated 18.4.1987 and 14.8.1987, there appears to be no reason why Respondent Nos.2 and 4 should not have passed similar orders with regard to the present applicants as have been issued by Respondent Nos.1 and 3 by order dated 26.12.2001 pertaining to other similarly situated persons. We are also aghast to see the lackadaisical and casual attitude of the respondents in implementing the Apex Court's orders which ought to have been done several years back. Respondent Nos. 2 and 4 have, to say the least, inordinately delayed the matter in taking appropriate

action to pass necessary orders in terms of the aforesaid orders passed by the Hon'ble Supreme Court.

8. In the result, for the reasons given above, the OA succeeds and is allowed with the following observations :-

(i) Respondent Nos.2 and 4 are directed to pass similar orders as have been passed by Respondent Nos.1 and 3 with regard to other similarly situated persons for regularisation / absorption of the applicants, as early as possible and in any case within one month from the date of receipt of a copy of this order, with intimation to the applicants;

(ii) In the facts and circumstances of the case, we also consider it appropriate to award costs of Rs.5000/- (Rupees Five Thousand) against Respondent Nos.2 and 4 and in favour of the applicants, which amount shall be paid within the aforesaid period.


(M.P. Singh)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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