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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.3111/2001 with OA Nos.3113, 3114 and 3123/2001

New Delhi, this the 12th day of July, 2002

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri M.P. Singh, Member(A)

OA 3111/2001

1. Lalit Kumar Vimal
House No.235/1, Sector 6
Pocket D-6, Rohini
2. Neyaz Ahmed Ansari
WZ-88/B, Possaangipur
Janakpuri, New Delhi .. Applicants

OA 3113/2001

Meenakshi Saini
A-49, Vijay Vihar Phase II
Near Avantika, Rohini .. Applicant

OA 3114/2001

Mrs. Shalini Jadon
Behind State Bank of India
Rithala, Delhi .. Applicant

OA 3123/2001

1. Miss Parveen Rohilla
B-43, Raghbir Enclave
Najafgarh, New Delhi
2. Sharad Kaushik
B-5/385, Sector 8
Rohini, Delhi .. Applicants

(By Shri S.K. Sinha, Advocate)

versus

Government of NCT of Delhi, through

1. Director of Health Services
Karkardooma, Delhi
2. Secretary
Delhi Selection Service Board
Karkardooma, Delhi
3. Medical Superintendent
Dr. B.S. Ambedkar Hospital
Sector 6, Rohini, New Delhi .. Respondents

(By Ms. Jasmine Ahmed, Advocate)

ORDER

Shri M.P. Singh, Member(A)

All the aforementioned four OAs involve a common issue and the facts are similar. Therefore, with the consent of the parties, we proceed to dispose of the same through this common order.



OA No.3111/2001

2. In this case, the applicants were appointed as OT Technicians (OTTs) on contract basis, initially for a period of 89 days or till regular candidates were appointed, vide order dated 21.11.2000. The post of OTT is in the pay scale of Rs.5000-85000 plus admissible allowances. For the initial period of three months of their appointment they were paid salary plus allowances but subsequently, besides allowances not being paid, allowances already paid for three months were recovered from their salary.

3. According to the applicants, although their appointment was termed on contract basis, it was an appointment on temporary basis as entire procedure for appointment on regular basis was followed while making recruitment. Their appointment has been made against regular sanctioned posts. Their term of appointment has been extended from time to time. Applicants have now filed this OA seeking directions to the respondents to absorb them on permanent basis as OTTs in the hospitals or dispensaries run by R-1 with consequential benefits and pay them salary as admissible to regularly appointed OTTs. They have also sought direction to the respondents to refund the amount recovered from their salary paid for three months from November, 2000.



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4. Respondents have contested the case and have stated that all the applicants have been appointed purely on contract basis for a period of 89 days with break for a maximum period of one year as per terms and conditions of their appointment. According to the respondents, the applicants are paid salary equivalent to the regular employees. However only the basic pay plus DA is admissible to them as per terms of the appointment letter and as per the policy of the State Government.

5. During the course of the arguments, learned counsel for the applicants drew our attention to the judgement dated 16.2.2000 in OA 2474/99 with connected OAs. He has submitted that the applicants in the present OA are similarly placed like those in OA 2474/99 etc. The said OAs were disposed of with the following directions to the respondents:

"....in the event of respondents appointing candidates on regular basis, the claims of the applicants for the said post should be considered. While considering the same, their experience of service already rendered should be taken into account and proper weightage should be given to the same. Similarly age relaxation should also be considered provided they are within the age limit on the date of their initial appointment. Till regular appointments are made, applicants' services should not be terminated.

"Respondents to make payments of the salary due to the applicants within a period of two weeks from the date of receipt of a copy of this order. The applicants will be entitled to future pay on the principle of equal pay for equal work at par with regular employees with effect from March, 2000"

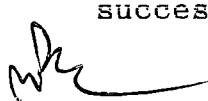


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The learned counsel for the applicants also submitted that the applicants have not been paid salary on month to month basis.

5. On the other hand, the learned counsel for the respondents stated that since applicants' appointments are made for 89 days, they are paid salary for that period instead of month-wise payment as it takes time to obtain sanction from the Department of Health. He further submitted that as per the Recruitment Rules, the post of OTT is required to be filled on the basis of selection made by Delhi Staff Selection Board (DSSB). Applicant are at liberty to appear and compete along with others before the DSSB for appointment on regular basis.

6. We find from office order dated 21.11.2000 that the applicants have been appointed on contract basis initially for a period of 89 days or till regular incumbents are appointed, whichever is earlier. Since regularly selected candidates from DSSB were not available, applicants' term of appointment was extended from time to time. Applicants therefore cannot claim regularisation unless they participate and compete with others in the test conducted by DSSB and become successful.



7. In view of this position, and having regard to the judgement dated 16.2.2000 in OA 2474/99 etc. (supra), present OA, i.e. OA No.3111/2001 along with other three OAs namely OA Nos.3113/2001, 3114/2001 and 3123/2001, is disposed of in the following terms:

- (i) Respondents are directed that in the event of appointing candidates on regular basis to the post of OTT, the claims of the applicants herein for the said post should be considered. While considering the same, their experience of service already rendered should be taken into account and proper weightage should be given to the same. Age relaxation and covering of experience may be made as per DoPT guidelines and judicial pronouncements on the subject. Till regular appointments are made, applicants' services should not be terminated.
- (ii) Respondents to make payments of the salary as admissible to regular OTT due to the applicants within a period of two weeks from the date of receipt of a copy of this order, if not already paid. The applicants will be entitled to future pay on the principle of equal pay for equal work at par with regular employees.
- (iii) Recoveries made from the salary of the applicants shall be refunded to them immediately.

8. Copy of this order be placed in other OA files.

No costs.


(M.F. Singh)
Member(A)


(Kuldip Singh)
Member(J)

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