

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.3429/2001

This the 8th day of May, 2002. 8

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Dr. Suresh Kumar Nagar
S/O Jage Ram,
R/O F-25/15, Sector 7,
Rohini, New Delhi-110085
working as Demonstrator,
Maulana Azad Medical College & Hospital,
New Delhi. ... Applicant

(By Shri S.K.Sinha, Advocate)

-versus-

1. NCT of Delhi through
Chief Secretary,
Govt. of NCT of Delhi,
Indraprastha Sachivalaya,
New Delhi.

2. Secretary,
Health & F.W.Department,
Govt. of NCT of Delhi,
Indraprastha Sachivalaya,
New Delhi.

3. Dean,
Maulana Azad Medical College;
Bahadur Shth Zafar Marg,
New Delhi. ... Respondents

(By Shri Harvir Singh, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

Applicant, Dr. Suresh Kumar Nagar, has been working as a Demonstrator (pre-revised scale of Rs.2200-4000) in the Maulana Azad Medical College & Hospital (MAMCH), Dental Wing. He was appointed on 13.6.1995 (Annexure A-4) on the recommendations of Staff Selection Board (SSB) on ad ad hoc and emergent basis for a period of six months or till such time a regularly selected candidate joins duty, in response to an

advertisement (Annexure A-2) published in 1994-95. Applicant fulfils essential qualification of the post prescribed as Bachelor in Dental Surgery from a recognised university or equivalent qualifications for category "A" as recognised by Dental Council of India as per India Dentist Act, 1948. Prior to that, applicant had been working as a Demonstrator in Rohtak University since 1992. He joined the present position submitting technical resignation from the previous post. Applicant has been continuing as Demonstrator (Dental) since 3.6.1995, receiving extension of his services at different intervals. Applicant has sought regularisation of his services. His representation for the same has remained unattended.

2. Learned counsel of applicant Shri S.K.Sinha contended that at the time when applicant was selected by SSB of the Medical & Public Health Department, the rules did not require selection through Delhi State Subordinate Services Selection Board (DSSSB)/UPSC. While DSSSB came into existence on 3.4.1997 only, applicant had been appointed in June, 1995. Drawing attention to Annexure A-7 dated 21.1.2002 which is an employment notice by the Department of Health & Family Welfare, Government of National Capital Territory of Delhi for various posts, the learned counsel stated that even now recruitment for various posts by the Department of Health & Family Welfare is not being made through DSSSB/UPSC but directly and through SSB constituted by the Department itself, as had been done in the case of applicant when he was selected during 1995. Learned counsel stated that one

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Dr. Anuradha who had been selected as Demonstrator in the Department of Dentistry, MAMCH on the recommendations of the SSB like the applicant, was regularised vide Annexure A-3 dated 30.5.1988 by respondents. Whereas by 17.6.80 and by relevant recruitment rules promulgated on 13.7.1959 for recruitment for the post of Demonstrator in Dentistry exist, as stated in paragraph 4.8 of the OA, DPC and requirement to consult UPSC were not specified therein, therefore, selection of applicant through SSB of the Department on the basis of applicant's eligibility under the rules would suffice after having continued for a long time as Demonstrator (Dental) with respondents, for regularisation of his services. Learned counsel relied on **Dr. G.P.Sarabhai & Ors. v. Union of India & Ors.**, 1983 LAB IC 910, in which the Delhi High Court held that petitioners appointed as Junior Medical Officers in ESI Corporation on ad hoc basis for one year would be deemed to be permanent and that UPSC had to regularise them and could not ask them to re-apply for posts already being held by them.

3. Learned counsel of respondents, Shri Harvir Singh, submitted that applicant had not been appointed through UPSC or DSSSB. He further contended that although applicant had been given extensions from time to time and even if there are posts of Demonstrator (Dental) lying vacant, applicant has no right for regularisation on such posts. The learned counsel, despite our asking, could not show any rules or instructions relating to recruitment for the post of Demonstrator in Dentistry through the agency of DSSSB/UPSC. It was not denied that

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DSSSB came into existence in 1997, much after applicant had already been selected as Demonstrator (Dental) and had worked for about two years already. It was also not denied that as established by Annexure A-7 recruitment is being made even now by the Department of Health & Family Welfare, Government of NCT of Delhi directly without reference to DSSSB/UPSC.

4. Applicant had been selected on the recommendation of SSB constituted by the Medical & Public Health Department of Government of NCT of Delhi and fulfilled the requisite qualifications for the post. He has continued to function as Demonstrator (Dental) for the last about seven years with respondents. We find that the institution of DSSSB came into existence in April, 1997, i.e., much after the appointment of applicant. No rules have been shown to us requiring further selection by the DSSSB for the post of Demonstrator (Dental) which had been filled earlier as per rules prior to the constitution of DSSSB. Even presently, as established by Annexure A-7, new posts under the Department of Health & Family Welfare are being filled by the Department itself without assistance of DSSSB.

5. In the facts and circumstances as described above, in recognition of applicant's selection through the SSB, fulfilment of eligibility conditions under the rules, experience of working with respondents for the last about seven years, and in the interest of justice, we find this to be a fit case where a direction should be

issued to respondents to consider the services of applicant for regularisation without insisting on fresh selection through DSSSB, provided that applicant's record is good. We direct accordingly. Respondents are further directed to accomplish the above exercise within a period of three months from service of these orders on them.

6. The OA is allowed in the above terms. no costs.

S. Raju

(Shanker Raju)
Member (J)

V.K. Majotra

(V.K. Majotra)
Member (A)

/as/