

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2013/99

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 27th day of September, 2000

Smt. Sudesh Khullar
w/o Shri Swaraj Kumar Khullar
r/o B-3-B/74-A, Janakpuri
New Delhi - 110 058. ... Applicant

(By Shri C.B.Pillai with Shri Surinder Singh,
Advocate)

Vs.

1. Union of India through
The Secretary
Ministry of Health & Family Welfare
Nirman Bhawan
New Delhi - 110 001.
2. The Director General
Indian Council of Medical Research
Ansari Nagar
New Delhi - 110 029.
3. The Medical Superintendent
Kasturba Gandhi Hospital
New Delhi - 110 002. ... Respondents

(By Ms. Geetanjali, Advocate)

O R D E R (Oral)

By Justice V. Rajagopala Reddy:

Heard the counsel for the applicant and the respondents.

2. The applicant has been working from 5.3.1981 as a Social Worker, admittedly on temporary basis, under the project, namely, Human Reproduction Research Centre at Kasturba Bhai Hospital. She had retired in 1999 working in the same post, in the same capacity, under the same project. The applicant filed the present OA seeking payment of pensionary benefits.

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3. The learned counsel for the applicant, Shri C.B.Pillai with the learned counsel, Shri Surinder Singh, submits that as the applicant had been working for the last 18 years, it cannot be said that she was only working on temporary basis as she has been paid regular pay scale and continuing without break in the project. The learned counsel for the respondents Ms. Geetanjali Goel submits that the applicant is not entitled for pension as she has not worked against any regular post on probation in a cadre. She has been appointed only against the project and her appointment is co-terminus with the project. The post is not a pensionable one.

4. Though this is a case deserving all sympathy of this Tribunal since the applicant had been appointed only against the project, not against a regular post in a cadre, the applicant cannot be granted any relief or any pensionary benefit as are available to the normal Government servant. The learned counsel for the applicant relies upon the Government of India's instructions where it was stated that no distinction could be made between the permanent and temporary employees in the application of the pension rules. Under this provision, it is incumbent for an officer whether he is posted against the permanent or temporary post to complete probation and she should have been confirmed in the said post. The applicant was not posted against any post carrying probation hence the question of confirmation does not arise. The instructions are not applicable to the facts of this case. ~~Applicant's Counsel~~ also relied on the judgment of the Supreme Court in Bhaskar Gajanan Kajrekar Vs.

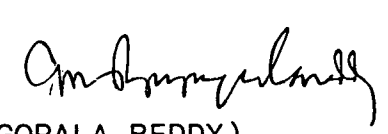
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Administrator, Dadra and Nagar Haveli & Others,
1993(1) SCSLJ 12. / ^{Reliance on} ~~that~~ judgment, in our view, is
misplaced. That case pertains to non- payment of
pension on the ground that the officer was not
confirmed for the reason that there are no recruitment
rules for the post and on account of the charges which
were never communicated, during the period of service,
the Supreme Court held that the denial of confirmation
was arbitrary.

5. In the circumstances, we do not find any
scope for granting the relief prayed for by the
applicant, the OA fails and is accordingly dismissed.
No costs.


(GOVINDAN S. TAMPI)
MEMBER(A)


(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/