

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 2435/99

New Delhi this the 25th day of July, 2000

Hon'ble Mr. Justice Ashok Agarwal, Chairman
Hon'ble Mr. V.K. Majotra, Member (A)

1. Dr. Adarsh Rani,
W/o Dr. Kulwant Chahal
R/o 325, Ishwar Colony,
Bawaba, Delhi-39.
2. Dr. Surender Pal,
S/o Shri Baljit Singh
R/o N-13, Vijay Vihar,
Uttam Nagar, New Delhi-59.
3. Dr. Virender Kumar
S/o Shri S.S. Kalyani,
R/o 247, Sainik Nagar,
Kasampur, Meerut Cantt.
4. Dr. Pushpendra Singh
S/o Shri Hari Pal Singh
R/o 1487/6, Rani Bagh,
Delhi-34.
5. Dr. Sujit Nayak,
S/o Shri R.N. Nayak,
R/o E-109, Mahavir Enclave,
Palam Dabri Road,
New Delhi-45.

...Applicants

(By Advocate: Shri K.N.R. Pillai)

Versus

Union of India- through
The Secretary,
Dept. of Animal Husbandry & Dairying,
Krishi Bhawan,
New Delhi.

...Respondent

(By Advocate: Shri K.K. Patel)

ORDER (Oral)

By Mr. V.K. Majotra, Member (A)

The applicants are all holders of the Degree of Bachelor of Veterinary Science and Animal Husbandry. The first 4 applicants were appointed as Sr. Technical Assistants on ad hoc basis for one year on various dates in May/June, 1998. The applicant No. 5 Dr. Sujit Nayak was appointed as

Senior Technical Assistant on 22.9.98. At the end of one year a formal termination order was issued to applicants. After effecting an artificial break of 1 or 2 days, they have been reappointed for 6 months. This period of re-appointment will end on different dates. Applicant No. 5 completed his first year term on 22.9.99. He was duly terminated and after a break reappointed for 6 months like the others. The post of Sr. Technical Assistant(STA) was in the pay scale of Rs. 550-900 in the 3rd Pay Commission for which the normal IV CPC replacement scale was Rs. 1640-2900. On the basis of the recommendation of the 5th Pay Commission the STAs have been accorded the scale of Rs. 8000-13500 from 1.1.96. Relying on the judgement of Dr. (Mrs) Sangeeta Narang & Others Vs. Delhi Administration (1988) 6 ATC 405 wherein Medical Officers appointed for short periods and continued for similar spells after artificial breaks were directed to be retained till regularly selected candidates were available, they were also allowed the same pay and allowances and other benefits as were available to the regulars, the applicants have sought following reliefs:-

- i) A direction to the respondents that the applicants should be granted the 5th Pay Commission Scale of Rs. 8000-13500 with NPA as notified by the Central Govt. for Sr. Tech Assistants (Livestock/Poultry), from the dates of their appointment and that they should also be given the same benefits of service conditions as are admissible to regularly appointed STAs, the artificial breaks effected in their service may be treated as dies non and they shall be treated as having continued in service from the date of first appointment and they shall be so continued till regular appointments are made to these posts;

ii) When regular recruits become available they shall first be posted in vacant posts and only after all the vacant posts are filled should the regular recruits replace the applicants. This replacement should be in the inverse order of length of total service;

iii) A direction that if the applicants apply to the UPSC for regular appointment, they should be given age relaxation to the extent of ad hoc service put in by them"

2. The Writ Petitions filed by the Govt.

against the judgement of 23.4.98 in Dr. Sangita Narang's case were dismissed by the Delhi High Court by its judgment dated 11.9.1998 in the matter of Govt. of NCT Delhi Vs. Dr. Y.S. Chauhan. The SLP filed against the aforeslated judgment was dismissed by the Hon'ble Supreme Court.

3. In their counter, the respondents have stated that the pay scale recommended by the Fifth Central Pay Commission was made applicable only to regular employees of the Department. Since the applicants were appointed on purely ad hoc basis in the scale of Rs. 1640-2900 in 1998, they cannot be continued in service and regular appointments can be made by the UPSC only. Since the appointment of the applicants was for a specific period, the same did not confer any right to the appointee for claiming regular appointment to this post. The respondents have admitted that the applicant do possess the minimum qualification prescribed for the post in question. However, the Recruitment Rules are being amended suitably by inserting term B.V.Sc. and A.H. in place of Degree in A.H. and Veterinary Science. The respondents have also contended that the ad-hoc employees in the present case are not being replaced by the ad-hoc persons. After the Rules are amended

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the respondents ~~are~~ will be enable to initiate process for appointments on regular basis to the posts in the revised scales.

4. We have heard both the learned counsel and carefully considered the material available on record.

5. The ratio in the case of Dr. (Mrs) Sangeeta Narang & Ors which was upheld by the Supreme Court is squarely applicable in the present case. It was held that the services of the petitioners could be terminated only if the same were no longer required or if the concerned authority was of the opinion that the performance of the particular petitioner is not up to the mark or he is not otherwise suitable for the post. The third eventuality for termination of services can arise by way of disciplinary action. It was further held that the short-term contract was neither conducive to efficient and smooth functioning of the department nor it is just and fair to the appointees on whose head the sword of Damocles keeps on hanging all the time ^{and} ~~the~~ the grim prospect of an uncertain and dark future stares in the face. The short-term contract of service of the petitioners is wholly unjust, unconscionable and is against the very letter and spirit of our Constitution which aims at securing social and economic justice; it violates the mandate of the great equality clause in Article-14. This judgment has been followed in several matters by the Tribunal.

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6. In the present case, we find that there is no dispute about the qualifications of the applicants for the post held by them. Furthermore, the short-term contract was for a period of one year extended from time to time with very short artificial breaks.

7. In the result, we allow the O.A. and direct the respondents to grant the applicants same pay scales and other service benefits as are admissible to regularly appointed STAs. They will also treat the period of artificial breaks as dies-non and consider their cases for grant of annual increments. The respondents shall also consider granting age relaxation if the applicants apply to the UPSC for regular recruitment to the extent of ad hoc service. When the regular recruits become available they shall first be posted in vacant posts and only after all the vacant posts are filled should the regular recruits replace the applicants. This replacement should be in the inverse order of length of total service. No order as to costs.

MA- 852/2000 also stands disposed of.

V.K. Majotra,
(V.K. Majotra)

Member (A)

Ashok Agarwal
(Ashok Agarwal)
Chairman

cc.