

-3-

Central Administrative Tribunal
Principal Bench

O.A. No. 1177 of 1998

New Delhi, dated this the 23rd October 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Birender Kishore Pathak through
L/R Mrs. Rukmani Devi,
Widow of Shri B.K. Pathak,
R/o 1, East Guru Angad Nagar,
Patparganj Road,
Delhi-110092. .. Applicant

(By Advocate: Shri S.M. Garg)

Versus

1. Shri Ramesh Chandra,
Principal Secretary,
Dept. of Health & Welfare,
5, Sham Nath Marg,
Govt. of NCT of Delhi,
Delhi.
2. Director,
Indian System of Medicine & Homoeopathy,
Ayurvedic & Unani,
Campus Tibbia College,
Karol Bagh,
New Delhi-110005. .. Respondents

(By Advocate: Shri Vijay Pandita proxy
counsel for Shri Rajinder Pandita)

ORDER

S.R. ADIGE, VC (A)

Applicant impugns respondents' action in redeploying and paying him as Demonstrator (Ayurvedic) instead of Ayurvedic Doctor/Medical Officer. He seeks redesignation as Ayurvedic Doctor/Medical Officer (Rs.2200-4000) with consequential benefits.

2. As per applicant's own averments he was appointed as a demonstrator in Sanathan Dharam Ayurvedic College, Malkaganj, Delhi w.e.f. 11.8.82. Consequent upon the closure of the college and

~

termination of their services the employees approached the Tribunal. Applicant filed O.A. No. 1207/90 which was allowed by order dated 31.7.92. That order followed earlier order dated 25.10.91 in O.A. No. 1340/88 filed by Smt. Nirmal Rai which was disposed of with following directions.

"....The applications are disposed of with the directions to respondents to treat the applicants as employees of Delhi Administration who had been rendered surplus consequent upon closure of Sanathan Dharam Ayurvedic College w.e.f. April, 1991. The applicants shall be given alternative placements in post in Delhi Administration commensurate with their qualifications and experience in accordance with an appropriate scheme to be prepared by them....."

4. Consequently Smt. Nirmal Rai filed C.P. No. 264/94 which was disposed of by order dated 10/1/95 (Ann. 1) with a direction to respondents to comply with the same within three months.

5. As respondents had not implemented the Tribunal's order dated 31.7.92 in O.A. No. 1207/90, applicant filed C.P. No. 167/94 which was also disposed of by the Tribunal by order dated 10.1.95 (Ann. 2).

6. Thereupon respondents issued order dated 3.1.96 (Ann. 4) redeploying applicant as Demonstrator (Homoe) (Rs.1640-2900). Applicant contends that it was initially proposed to redeploy him as Ayurvedic Vaidya/Doctor (Rs.2200-4000) vide

draft order at Annexure 3, but owing to malafide reason he was finally redeployed only as Demonstrator (Rs.1640-2900) although there was no such post in Government of National Capital Territory of Delhi.

7. Applicant relies heavily on letter dated 2.5.91 (Ann. A-5) from the Central Council of Indian Medicine requesting for necessary steps to be taken to redesignate the posts Demonstrator in Ayurvedic College to that of Lecturer (Rs.2200-4000).

8. Applicant also contends that while he was absorbed only as Demonstrator his junior Shri Y.D. Sharma in S.D. Ayurvedic College was absorbed as Medical Officer and further more all alonghe has continued to discharge the functions of Medical Officer.

9. Respondents have filed their reply in which they deny these contentions, and applicant has filed his rejoinder in which he has broadly reiterated the contents of the O.A.

10. Meanwhile as applicant has himself expired after filing of the O.A., his legal heir have been brought on record vide order dated 10.12.99.

11. We have heard both sides and considered the matter carefully.

12. Unless the letter from CCIM dated 2.5.91 was followed by a properly authenticated sanctioning order issued by Government redesignating the post of Demonstrator as Lecturer in the upgraded scale of Rs.2200-4000 it cannot be said that there was no post of Demonstrator (Ayurvedic) against which applicant was redeployed vide order dated 3.1.96, more so when there is on record a copy of an order dated 26.3.98 sanctioning the continuance of a post of Demonstrator (Ayurvedic) (Rs.1640-2900) for a further period of one year w.e.f 1.3.98.

13. As regards Shri Y.D. Sharma, applicant has not denied in rejoinder the specific averment of respondents in their reply that Shri Sharma was working as Lecturer in S.D. College and was, therefore, redeployed as Lecturer, while applicant as per his own averments was working only as Demonstrator in S.D. College, and was, therefore, redeployed as Demonstrator.

14. It is true that from time ^{to him,} applicant was placed in charge of the Ayurvedic dispensary, during the absence of the regular incumbent, but many of those ^{orders} (for example the one dated 28.2.97 and 1.3.97) themselves clearly show applicant as Demonstrator, and on the strength of those orders, applicant cannot claim that he stood regularly appointed as Medical Officer or should have been

2

regularly absorbed as Medical Officer.

15. The O.A., therefore, warrants no interference. It is dismissed. No costs.

A. Vedavalli
(Dr. A. Vedavalli)
Member (J)

Adige
(S.R. Adige)
Vice Chairman (A)

karthik