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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1962/1998

New Delhi, this 2nd day of February, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J)
Hon'ble Smt. Shanta Shastri, Member(A)

Dr. Ruma Prasad
w/o Dr. R.N. Sahai
2, Old Doctor's Flat
Hindu Rao Hospital, Delhi

... Applicant

(By Shri S.K. Sinha, Advocate)

versus

1. Secretary, Medical
Govt. of NCT of Delhi
5, Sham Nath Marg, Delhi-54

2. Director of Health Services
E Block, Saraswati Bhavan
Connaught Place, New Delhi

3. Union Public Service Commission
Shahjahan Road, New Delhi ... Respondents

(By Shri N.K. Aggarwal and Shri Rajinder Pandita,
Advocates)

ORDER

Hon'ble Smt. Shanta Shastri

The applicant, who is a doctor, was appointed by the respondents initially to the post of Medical Officer on contract basis for 89 days, from 28.10.96, in response to an advertisement issued by R-2 after due selection. She was again reappointed on the same post after completion of the aforesaid period for one more year. The period of one year expired on 30.1.98. Her appointment was not extended further. According to the terms of appointment, she was getting a consolidated pay of Rs.6000/- per month. She has sought reliefs to continue her in service from the date she was first appointed by treating the break in service as dies non till regularization of the applicant is made to the post. She has also asked for same pay scale, allowances and other benefits granted to the applicants in the case of

Dr.(Mrs.) Sangita Narang & Ors. Vs. Delhi Admn. etc.

(1998) 6 ATC 405. She has further prayed that even if regular recruits are available, she should first be adjusted in the vacant post and only after all the vacant posts are filled that she should be replaced by regular recruits. Further, she should be given age relaxation if she is to apply to the UPSC for regular recruitment.

2. The applicant's case is that several Medical Officers appointed similarly on contract basis for short periods were allowed to continue in service subject to regular appointees becoming available after due selection by the UPSC. She has cited the case of Dr.Sangita Narang & Ors.(supra) wherein it was held as under:

"Automatic termination of services of ad hoc employees on expiry of fixed period for which they were employed is not permissible so long as there is need for manning of posts. Termination can be ordered only if services are no longer required or performance of an ad hoc appointee is unsatisfactory. Acceptance of an offer stipulating fixed period of ad hoc appointment does not validate such termination as such condition itself is invalid".

3. The applicant is also drawing support from the judgement in OA No.848/98 with OA 927/98 decided on 9.2.99 in the case of Dr.Zarine Sarojini Periera Vs. Govt. of NCT of Delhi. In both the OAs the applicants were doctors appointed on short term contract basis. Both the OAs were allowed and respondents were directed to re-engage the applicants as before and to allow pay scales and other service benefits as are admissible to the regularly appointed incumbents.

4. Learned counsel for the applicant has also relied upon the recent judgement of this Tribunal dated 18.11.99 in OA No.147/98 (Dr.Namita Khattar & Ors. Vs. NCT of Delhi & Ors.) with three other OAs, wherein the applicants had filed their OAs in this Tribunal soon after the expiry of their contract on 9.1.98. They had approached after the period of expiry of their contract and had been out of job. While holding that the applicants have no right to continue after the contract period, the Tribunal directed the respondents that if the applicants apply within 10 days from the date of the order, their case for appointment till regular appointments are made should be considered, if the applicants are within the age limit as prescribed in the advertisement which had already been issued on 10.8.99 and otherwise eligible. Respondents were also directed to extend the last date for receipt of applications for a period of 10 days in favour of the applicants. It was also ordered that the case of the applicants should be considered on preferential basis over others since they have already been working in the hospitals. According to the applicant, she being similarly placed these judgements apply to her also and therefore her prayers should be granted.

5. Learned counsel for the respondents contends that applicant's contract was over on 30.1.98 and she has approached the court only in September, 1998 and that the OA is barred by limitation. Also the Hon'ble Supreme Court has held that when the contract ends no continuation can be given. Learned counsel also submits that the judgement in the case of Dr. Sangita Narang (supra) is not relevant in the present case. Applicant

has approached this Court after her services were terminated, whereas in other cases the applicants had approached this Court well before termination of their contract and had obtained interim stay. The applicant cannot compare her case with of Dr. Mala Singh(supra), Moreover the advertisement for recruitment of Medical Officer was published in August, 1999 and the last date for receipt of applications was 20.8.99. Thereafter interviews have been held and the selection process has been completed. Applicant did not apply in response to the said advertisement. Therefore there is no question of re-engagement of the applicant.

6. Learned counsel for the applicant points out that the applicant was advised to give legal notice before approaching this Court and therefore the delay has occurred in filing the OA. Further, even in the case of Dr. Mala Singh and others in OA Nos.2985/98 with 161/98 and 178/98 decided on 17.8.98 the applicants had approached the Tribunal after termination of contract yet they got orders in their favour and on the same analogy applicant's case also should be considered. The applicant did not apply against the advertisement because she is overaged. In view of this, applicant's plea is that she should be considered for re-engagement. In view of this, applicant's plea is that she should be considered for re-engagement.

7. We have heard the learned counsel for both the applicant and the respondents. We find that the various judgements cited by the applicant do not render any assistance to her in that the present OA is distinguishable from those cases. The applicant has

filed the OA in September, 1998 whereas her services were terminated on 30.1.98. As rightly pointed out by the learned counsel for the respondents, once the contract ends it cannot be continued. In the meantime an advertisement was issued in August, 1999 and the applicant failed to apply on the ground that she is overaged. We find that she has not made any representation against her termination. The applicant herself is to be blamed in the matter. The applicant cannot expect us to help her when she has failed to help herself.

8. Thus we do not find any merit in the present OA and it deserves to be dismissed. We do so accordingly. There shall be no order as to costs.

Shanta Shastri

(Smt. Shanta Shastri)
Member(A)

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)
Member(J)

/gtv/