

DA
CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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O.A.NO.1839/95

7 New Delhi, this the 21st December, 1995

Hon'ble Shri N.V. Krishnan, Acting Chairman,
Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Dr. S.C. Arya,
Psychiatrist Specialist
Hospital for Mental Diseases (IHBAS),
Shahdara, Delhi.

r/o

Flat No.6, Type V.
Doctors' Flats,
HMD Colony, Shahdara,
Delhi.

... Applicant

By Advocate: Shri D.R. Roy

Vs.

Union of India, through

1. Secretary (Health)
Ministry of Health and Family Welfare,
Deptt. of Health
Nirman Bhawan,
New Delhi.
2. Secretary (Medical),
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi.
3. Secretary,
Union Public Service Commission,
Shahjahan Road,
New Delhi.

... Respondents

O R D E R (ORAL)

Hon'ble Shri N.V. Krishnan, Acting Chairman

The applicant is a Psychiatrist Specialist in the hospital for Mental Diseases, Shahdara, Delhi. The applicant is aggrieved by the Annexure A-1 order dated 10.4.95 by which the request made by the applicant through proper channel was rejected.

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2. The applicant's case is that he was given an ad hoc appointment in pursuance of Annexure A-2 offer of appointment dated 19.12.88. He joined the post immediately.
3. Subsequently by the Annexure A-4 order dated 3.3.93 the applicant was appointed to the Specialist Grade II post of the Non-Teaching Specialist Sub-Cadre of the Central Health Service on probation on the recommendations of the UPSC and posted as Psychiatrist Specialist in the same hospital mentioned above with effect from 31.10.90.
4. The claim of the applicant ^{is that,} ~~was~~ for the purpose of seniority, the entire ad hoc service rendered by him from December, 1988 should also be counted. He made a representation in this behalf on 18.1.95 to first respondent Secretary, Ministry of Health and Family Welfare. He stated therein that he had worked from 22.10.88 upto 30.10.92. Therefore, this period should be counted for seniority and promotion to the next higher grades.
5. Ultimately, this representation was rejected by the impugned Annexure A-1 order. It is clearly stated in the order that it was clearly mentioned in the ad hoc offer of appointment in Annexure A-2 order that the period of ad hoc appointment ~~would~~ not bestow on him any claim or

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right for regular appointment in the CHS and the period of ad hoc appointment would not count for the purpose of seniority and for eligibility for promotion, confirmation etc. It is in terms of this condition that the representation was rejected.

6. This O.A. has been filed for a suitable direction to the respondents to grant regularisation from 22.12.88.

7. When the matter came up for admission, we wanted the learned counsel to show us how this prayer is maintainable in view of the terms of ad hoc appointment.

8. The learned counsel concedes that there is no decision of the Hon'ble Supreme Court which says that every service rendered on ad hoc basis should count for seniority. Even though he has enclosed a copy of the order of the Supreme Court in CMP 8076/88 in Civil Appeal 3519/84, He concedes that his case cannot be decided on that basis.

9. What he contends is that if the selection had been made earlier or immediately after his ad hoc appointment, he would have the benefit of service of a year or so, both for seniority and for promotion. He seems to rely on a judgement of this Tribunal of the New Bombay Bench of the Tribunal in O.A.No.177/86 to contend that the respondents are bound to hold selection in time. We have seen that

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judgment. That is in respect of DPC for promotion.

The case of promotion is entirely different from direct recruitment. None can compel the government to resort to direct recruitment. When Govt. chooses to initiate proceedings for direct recruitment is entirely a matter of administrative discretion.

Therefore, no claim can be founded on this argument. So far as the impugned order is concerned, we do not find any merit in the prayers made. Accordingly, the O.A. is dismissed. No costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)

Member (J)

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N.V. Krishnan
21.12.15

(N.V. Krishnan)

Acting Chairman