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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 2018 of 1996

New Delhi, this 9th day of March, 2000

Hon'ble Shri Justice V. Rajagopala Reddy, VC(J)
Hon'ble Smt. Shanta Shastry, Member(A)

1. Ram Prakash Pal, Statistical Assistant
National Malaria Eradication Programme
22 Shambhunath Marg.. Delhi-110054.
2. Keshab Dutt, UDC-cum-Computer
National Malaria Eradication Programme
22 Shambhunath Marg
Delhi-110054. Applicants

(By Shri K.B.S. Rajan, Advocate - not present)
(Shri T.D. Yadav, proxy is present)

versus

1. Director
National Malaria Eradication Programme
22 Shambhunath Marg, Old Secretariat, Delhi-110054.
2. The Director General
Dte. General of Health Services
Ministry of Health & Family Welfare
Nirman Bhawan, New Delhi-110011 Respondents

(By Shri Madhav Panikar, Advocate - not present)
(Shri Surinder Singh, proxy is present)

ORDER(oral)

By Reddy, J.

None appears for the parties either in person or through counsel except the aforesaid proxy counsel to inform that the Advocates are abstaining from courts. Since this is admitted case and the pleadings are complete, we dispose of the case on the basis of the available pleadings on record even in the absence of the parties under Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

2. There are two applicants in this case, viz. R.P. Pal and Keshab Dutt. The 1st applicant R.P. Pal was appointed as LDC by order

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dated 20.12.1979. He was promoted as UDC by order dated 19.3.1986 in the scale of Rs.330-560, initially for a period of two months, in the leave vacancy on, ad hoc basis, with effect from 25.2.1986. He was again promoted as UDC-cum-Computer on ad hoc basis by order dated 11.4.1986 with effect from 8.4.1986 and he continued to work in the said post. By an order dated 25.7.1989, he was regularised with effect from 12.7.1989 in the post of UDC-cum-Computer.

3. The 2nd applicant Keshab Datt was promoted as UDC-cum-Computer in the scale of Rs.330-560 on ad hoc basis by order dated 22.2.1984 with effect from 15.2.1984. He was subsequently regularised in the said post with effect from 29.6.1987, by order dated 10.7.1987.

4. The grievance of the applicants is that they are entitled to be regularised with effect from their initial date of promotion, on ad hoc basis, i.e from 15.2.1984 in respect of 2nd applicant and from 8.4.1986 in respect of 1st applicant. It is their case that they have been initially promoted though on ad hoc basis, but on the basis of the recommendations of the DPC and, that it was for all purposes regular promotions. It is alleged that they have continued to work in the promoted post without any interruption from the date of ad hoc promotion for over three

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years. Hence they are entitled for regularisation from their ad hoc appointment.

5. In the counter affidavit, a preliminary objection was taken that the OA was barred by limitation. On merits, it is stated that the applicants have been regularised on the dates mentioned in the orders of regularisation. The averments made by the applicants are refuted stating that there were no clear vacancies at the time they were promoted on ad hoc basis and vacancies against which the applicants were promoted on ad hoc basis became available temporarily because of ad hoc promotion of the regular incumbent/occupants to senior scale who continued to maintain the lien. The applicants have been promoted on regular basis after the clear vacancies arose.

6. We have carefully considered the pleadings and the points raised in the OA. We are of the view that the OA suffers from laches and also is hit by Section 21 of the Administrative Tribunals Act. The only grievance of the applicants in the OA is that they should have been regularised with effect from 15.2.1984 and 8.4.1986 i.e., the dates of their ad hoc promotion as UDCs and that the orders of regular promotion issued in 1989 and 1987 are illegal. Aggrieved by order of regularisation the

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applicants submit that they had made a representation. But the dates of representation are not given. The applicants filed MA.1920/96 seeking condonation of delay in filing the OA. The only reason given to explain the delay was that there was no reply to the representations made by them on 28.3.1994 and 21.7.1994. Practically no reason has been given to explain the delay from 1989 till 1994. But in view of section 21 of the Administrative Tribunals Act, unless the applicants approach the court within a period of 18 months from the date of adverse orders, the application should not be admitted or entertained. We are of the view that the cause of action arose for the applicants in 1987 and 1989 and the OA filed in 1996 is already barred by limitation. In the circumstances, the OA has to be rejected on the ground of limitation.

7. Further even on merits, we do not find any good case for the applicant. It is true that the applicants have stated that they were promoted though on ad hoc basis in 1984 and 1986 upon the recommendations of the DPC, i.e. in accordance with the recruitment rules. But in view of the averments made by the respondents in the reply that the promotions were only on ad hoc basis, as that there were no clear vacancies to be promoted on regular basis. No mention is made



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in the orders order of ad hoc promotion that they have been recommended by the DPC for promotion. On the other hand, in the orders of regularisation, it was clearly stated that on the recommendation of the DPC held on 12.7.1989, the applicants were regularised with effect from 12.7.1989. As per the decision in the case of Direct Recruit Class-II Engineering Officers' Association vs. State of Maharashtra & Ors [1990(2)SCC.715], since the initial ad hoc promotion was not made in accordance with the recruitment rules, only "conclusion(A)" is applicable, and not "conclusion(B)". Hence, the applicants are not entitled for regularisation with effect from their initial date of ad hoc appointment. In the circumstances, the OA fails both on merits and on limitation and is accordingly dismissed. No costs.

Shanta Shastray
(Mrs. Shanta Shastray)
Member(A)

Ombyngadwally
(V. Rajagopala Reddy)
Vice Chairman(J)