

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

R.A. No. 118 of 1997 along with

M.As. No. 1201 and 1202 of 1997 In

O.A. No. 952 of 1996

with

O.A. No. 566 of 1992

O.A. No. 202 of 1995

New Delhi this the 11th day of August, 1997

HON'BLE MR. K. MUTHUMUMAR, MEMBER (A)

HON'BLE MR. T.N. BHAT, MEMBER (J)

(i) O.A. No. 952 of 1996

Dr. V.P. Bansal
R/o C-11/26, Tilak Marg,
New Delhi.

.....Applicant

VERSUS

(1) Union of India
through the Secretary,
Ministry of Health and Family
Welfare,
Nirman Bhawan,
New Delhi.

(2) Mr. M.S. Dayal
Former Secretary,
Ministry of Health and Family
Welfare,
R/o E, 5-3 M.S. Flats,
Sector-13,
R.K. Puram,
New Delhi.

(3) Dr. P.C. Rai
Former Additional Director
General of Health Services,
R/o D-11/153, West Kidwai Nagar,
New Delhi.

(4) Dr. S.P. Aggarwal
Medical Superintendent,
Ram Manohar Lohia Hospital,
New Delhi.

(5) Smt. Ira Ray
Director,
National Institute of Biological
Sciences,
11nd Floor,
Nirman Bhawan,
New Delhi.

(6) Dr. J.L. Srivastava
Head, Burns & Plastic Department,
Safdarjung Hospital,
New Delhi.

(7) Shri I.N. Tiwari
Medical Superintendent,
Lok Nayak Jai Prakash Narain
Hospital,
New Delhi.

(8) Union Public Service Commission,
Through its Chairperson,
Shahjehan Road,
New Delhi. . . Respondents

(iii) O.A. No. 202 of 1995

Dr. V.P. Bansal
S/o Shri H.C. Aggarwal,
R/o D-11/52, West Kidwai Nagar,
New Delhi. . . Applicant

VERSUS

(1) Union of India
through the Secretary,
Ministry of Health and Family
Welfare,
Nirman Bhawan,
New Delhi.

(2) Director General,
Health Services,
Nirman Bhawan,
New Delhi.

(3) Shri M.S. Dayal
Secretary,
Ministry of Health,
Nirman Bhawan,
New Delhi.

(4) Shri A.K. Mukherjee
Director General of Health
Services,
Nirman Bhawan,
New Delhi.

(5) Chairman,
Union Public Service Commission,
Dholpur House,
New Delhi. . . Respondents

(iii) O.A. No. 566 of 1992

Dr. V.P. Bansal
S/o Shri H.C. Aggarwal,
R/o D-11/52 West Kidwai Nagar,
New Delhi.

VERSUS

(i)

Union of India
through Secretary,
Ministry of Health,
Nirman Bhawan,
New Delhi.

(2)

Union Public Service Commission,
through its Secretary,
Dholpur House,
New Delhi.

... Respondents

ORDER BY CIRCULATIONHON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

In this Review Application, the applicant seeks to review the order passed in O.A. No., 952 of 1996 with O.A. Nos. 566 of 1992 and 202 of 1995. The petitioner has attempted to reagitate and reargue all the issues which have been considered and disposed of by our order in the aforesaid O.As. This is not permissible in a Review Application. If the applicant has difficulty in accepting our findings and conclusions on the issues involved in the aforesaid applications, the remedy does not lie in a Review Application.

2.

On the question of reckoning the service rendered by him in the PGI, Chandigarh for seniority in Supertime Grade and for promotion to the ADGHS grade, we have dealt with this question in detail in para 25.1 of our order. The applicant submits that the said service ought to have counted towards "experience" and to be treated as equivalent service. The question for consideration was whether the said service could be counted for purpose of determining his seniority in the



Supertime Grade. We have held that the applicant has no claim. We do not find there has been any error on the face of the record.

3. On the question of date of recommendation of UPSC as the date of appointment and for seniority, we have dealt with this matter in paras 26 to 28. We have held that there is no specific provision in the CHS Rules of 1982, as amended, or the O.M. dated 3.7.1986 for taking date of recommendation of UPSC as the date of appointment. We have held that the respondents have rightly taken the date of joining as the date of appointment and we have given reasons therefor. We have considered the submissions made by the applicant in this behalf as well as on the question of seniority over Dr. P.C. Rai. This has been dealt with in para 28 of our judgment. If the applicant has difficulty in accepting our findings that does not imply that there is an error apparent on the face of the record. This also applies to his various other submissions on the other issues relating to ACRs and proceedings of DPC of 25.1.1995. Our findings on his allegations have been dealt with in detail in paras 29 to 34, after our perusal of the documents filed by the respondents. If the applicant does not accept our findings, this does not constitute an error on the face of record and, therefore, this is no ground for review.

4. In regard to the initial appointment of respondent No.4 as Specialist Grade-II and his subsequent promotions to Grade-I, the applicant contends that respondents have misled the Tribunal. We have dealt with

W

(5)

this matter in para 35 of our order. We cannot accept the present plea of the applicant that the respondent No.4's appointment was challenged earlier. We have held that the appointments and promotions were approved by the U.P.S.C. at every stage and in any case nothing was brought on record in the O.As. to suggest that these appointments and promotions were held to be illegal by competent authority or court of law. In any case, as far as our order is concerned, there is no error on the face of the record. Further in the O.As. filed by the applicant, there has been no specific challenge to the initial appointment of respondent No.4 in the specialist Grade-I or his subsequent promotions and, therefore, the applicant cannot reopen this issue in a Review Application when we have already pointed out that this matter cannot be reexamined in the adjudication of the present applications. We have also referred to the decision of the Apex Court in Government of A.P. VS. M.A. Kareem and Others and, therefore, the contention of the applicant in this regard is not acceptable.

5. In the light of the foregoing, we do not find any merit in the Review Application. The Review Application is accordingly rejected. The M.As. 1201 and 1202 of 1997 filed along with the Review-Application are not maintainable and are also rejected.


(T.N. BHAT)
MEMBER (J)


(K. MUTHUKUMAR)
MEMBER (A)

Rakesh