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Central Administrative Tribunal  
Principal Bench, New Delhi.

OA-171/97

Hon'ble Shri S.P. Biswas, Member(A)

New Delhi this the 24th day of January, 1997.

Dr. Rashmi Jain,  
Flat No. 135-A,  
Pocket-A, Dilshad Garden,  
Delhi-95.

.... Applicant

(through Shri M.K. Singh, advocate)

versus

1. Govt. of N.C.T. Delhi,  
through Principal Secretary,  
Delhi.
2. Medical Superintendent,  
Guru Teg Bahadur Hospital,  
Shahdara, Delhi-93.

.... Respondents

Order(oral)

The applicant is aggrieved by the action of respondents in refusing to grant her maternity leave as well as further extension of service. It is the case of the applicant that in terms of the residency Scheme introduced by the respondents, those post graduates in medicines and surgery are appointed as Senior Residents on tenure for three years. The applicant herein was originally appointed on 8.4.91 on ad hoc basis as per terms and conditions stipulated in A-1 appointment letter. The applicant was appointed

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for the post of Senior Resident in the Department of Anaestheisology on the recommendation of the Staff Selection Committee. She continued working for 270 days with a break of a day after every spell of 89 days. In other words, she has since completed the 4th spell and is now without any job for the last two months.

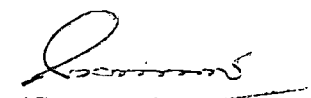
2. The applicant has also applied for the maternity leave vide Annexure A-5 dated 9.10.96 but the application for the maternity leave was rejected by memo dated 9.11.96. The applicant is aggrieved on this issue as it amounts to discrimination in the sense that a similarly placed Sr. Resident, namely, Dr. Homani Lade was earlier sanctioned maternity leave as at Annexure A-10. Applicant would submit that since she has completed 270 days as Sr. Resident and as per Section 5 of the M.B. Act 1961 maternity benefits are to be given to those who have completed 160 days of work in a year. Therefore, denial of maternity benefits on the basis that she worked for only 89 days is arbitrary. The applicant has also cited the decision of this Tribunal in OA-2370/92 decided on 3.2.93 wherein the respondents were directed to consider the continuation of the applicant therein for the remaining portion of the tenure since the applicant in that O.A. had continued almost half of the tenure. Based on the circumstances aforesaid, the applicant has come up before this Tribunal with the request to provide following reliefs:-

- (i) grant her maternity leave for a period of 90 days w.e.f. 19.10.96; and

(ii) allow her to continue for the remaining tenure as a Sr. Resident under the respondents.

3. I find that applicant's appointment was only on ad hoc basis. However, based on facts and averments of the case, I direct respondent No.2 to consider the case of the applicant in respect of the above reliefs prayed for, pass reasoned orders and communicate the same to the applicant within a period of six weeks from the date of receipt of a copy of this order. The respondents shall do well to adhere to the time schedule given by the Tribunal and avoid wilful charge of disobedience to the orders/directions of this Tribunal.

4. The application is disposed of as aforesaid at the admission stage.

  
(S.P. Biswas)  
Member (A)

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