

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

(V)

O.A.No.2905/97

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

New Delhi, this the 18th day of April, 2000

Kamal Nayan
s/o Shri Inder Pal
Ambulance Attendant/Stretchor Bearer
Central Jail Hospital
Central Jail Tihar
New Delhi.
r/o H-264, J.J.Colony
Ashok Vihar
Wazir Pur
New Delhi. ... Applicant

(By Shri G.D.Bhandari, Advocate)

Vs.

1. Govt. of N.C.T. through
The Secretary Home (General)
5, Sham Nath Marg
Delhi.
2. Inspector General of Prisons
Central Jail, Tihar
New Delhi. ... Respondents

(None)

O R D E R (Oral)

By Reddy. J.

The applicant was appointed as Ambulance Attendant in the grade of Rs.196-232 on ad hoc basis in Central Jail Hospital, after a process of selection vide order dated 19.1.1987, Annexure-A5. The appointment was initially for a period of three months but the same has been extended from time to time. The services of the applicant subsequently has been regularised by order dated 11.11.1996 in the post of Stretchor Bearer w.e.f. 8.1.1996, i.e., the date of the appointment. The grievance of the applicant is that he should have been regularised w.e.f. the initial date of appointment on ad hoc basis, i.e., 9.1.1987. He submits that similarly situated persons like, Mali, Peon, Matron in the Jail Department have been regularised from the date of their ad hoc appointment.

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2. Almost all the facts are admitted in the counter affidavit. However, it is stated that there was one post of Ambulance Attendant in the year 1987 and the applicant was appointed against that post without following the prescribed procedure and that he was appointed as per the Recruitment Rules of Stretcher Bearer, a same kind ^{of} para-medical Class-IV employees post, as the Recruitment Rules of Ambulance Attendants are neither available with the Jail Department nor with the other Delhi Administration Hospital. Hence, the applicant has been regularised in the post of Stretcher Bearer after the nomenclature of the post has been changed from Ambulance Attendant to the Stretcher Bearer. It is thus stated that the applicant could not has been regularised from the date when he was appointed on ad hoc post as an Ambulance Attendant.

3. We have given careful consideration to the pleadings as well as the arguments advanced by the learned counsel for the applicant. None appears for the respondents.

4. The learned counsel for the applicant draws our attention to Annexure-A/18 to the Recruitment Rules for the post of Attendant (Male & Female) Class-IV Messenger, Dispensing Orderly, Stretcher Bearer, Nursing Orderly, Ward Orderly and Aya, notified vide Notification dated 3.8.1967. The

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learned counsel for the applicant submits that these rules govern the appointment of all the above posts. Thus, according to him, the Rules of Stretcher Bearer are equally applicable to the post of Ambulance Attendant. We are however not sure whether the category of Attendant (Male/Female) refers to the Ambulance Attendant or not. It appears that as there are no rules as to the appointment of Ambulance Attendant, it is necessary to regularise the services of the applicant only as Stretcher Bearer. In the absence of the Rules of the Ambulance Attendant, the nomenclature of the Ambulance Attendant has now been changed to Stretcher Bearer after obtaining the sanction from the Lt. Governor vide proceedings dated 8.1.1986, Annexure-A16/A. It must be noticed that it is not the case of the respondents that the applicant could not be regularised w.e.f. the date of initial appointment on the ground that he was not performing the duties and functions of the Stretcher Bearer in the Central Jail Hospital. It is nowhere stated that the applicant was only performing the functions of the Ambulance Attendant and duties and functions of Stretcher Bearer are entirely distinct and different. Admittedly, the applicant has been appointed in the year 1987 and has been discharging his duties in the hospital without any break, his services have now been regularised in the post of Stretcher Bearer but only w.e.f. 8.1.1996 after the nomenclature of the post has been changed. Even assuming that there were no rules for the post of Ambulance Attendant, at least it should have been treated that the applicant has been working since 1987 in the post of Stretcher Bearer. We do not find any justification in depriving several

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years of service of the applicant only on the ground that a mistake has been committed in the nomenclature of the applicant's post. The Recruitment Rules for the post of Stretcher Bearer are of 1967. The mere fact that the applicant has been regularised in the post of Stretcher Bearer shows that the applicant has fulfilled the requirements that was required for the post of Stretcher Bearer. It is not the case of the respondents that the applicant has acquired fresh qualifications recently which would meet the required qualifications. It is not the case of the respondents that the applicant was not eligible in 1987 for appointment to the post of Stretcher Bearer. Further the averment made by the applicant that other similarly situated ad hoc employees in the Jail Department were regularised from back dates, is not denied by the respondents in their counter.

4. In view of the aforesaid circumstances, we direct that the services of the applicant should be regularised w.e.f. 9.1.1987 for the post of Stretcher Bearer and put his name in the proper place of the seniority list within three months from the date of receipt of a copy of this order and also give him all consequential benefits. The OA is accordingly allowed. No costs.

Smt. Shanta Shastri
(SMT. SHANTA SHASTRY)
MEMBER(A)

V. Rajagopala Reddy
(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/