

5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

U.A. 2493/94

New Delhi, this the 23rd day of May 1995.

Hon'ble Shri N.V.Krishnan, Vice-Chairman (A)

Hon'ble Dr.A.Vedavalli, Member (J)

Shri S.M.Gupta
S/o Shri B.P.Gupta
R/o 233 A, VP Block,
Maurya Enclave
Pitampura
Delhi 110034

.....Applicant

(By Advocate Shri S.K.Bisaria)

Versus

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

2. Safdarjung Hospital
through
Medical Supdt.
Aurobindo Marg,
New Delhi.

(By Advocate: Ms.Anju Jain, Proxy for Ms.
Ms.Pratima K.Gupta)

.....Respondents

ORDER (Oral)

Hon'ble Shri N.V.Krishnan, Vice-Chairman (A)

The applicant was a Lab Technician in All India Institute of Medical Sciences (AIIMS) where she was engaged in Post Mortem Project funded by the Delhi Administration. As that project was closed, her service was terminated by the Annexure A-4 order dated 18-12-1987. Against this termination, a writ petition is, stated to be pending in the Delhi High Court. However, the applicant and other affected persons, filed the writ petition No. 879 of 1988 in the Supreme Court which was disposed of by the Annexure-5 order dated 25-4-1989, the learned

6

..2/

Additional Solicitor General submitted before the Court that the petitioners therein, as well as other persons who were working at the AIIMS under the earlier scheme, would be taken on duty at Safdarjung Hospital as fresh employees without any claim for seniority. There upon the counsel of the petitioners prayed that, in addition, their pay should be protected and the service put in by them should be counted for the purpose of leave and retirement benefits. Accordingly an order was made by the court on those terms on 25-4-89 (Annexure A-5).

2. In pursuance of this order of the Supreme Court, the necessary posts were created from 25-4-89 by the Annexure-6 order dated 19-10-89. The applicant was appointed, from 15.11.89 to the post of Technician by the order dated 24-11-89 (also Annexure-6) at the minimum of the pay scale of Rs. 1320-2040. It stated that the pay as Lab Technician will be protected as and when the relevant records are received from the AIIMS.

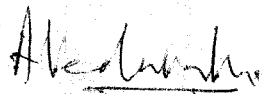
3. Aggrieved by this order the applicant has filed this OA for directions to

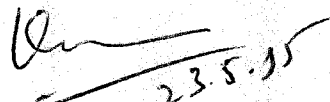
- i) regularise the break in service between 16-12-87 to 15-11-89 i.e. the date from which the services were terminated by the AIIMS upto the date of appointment in the Safdarjung,
- ii) to pay the arrears of salaries for that period,
- iii) to count that period also for increments and,
- iv) for a direction that the past service rendered in the AIIMS should be counted for purpose of promotion.

4

4) The respondents have filed a reply resisting the claim.

5) We have heard learned counsel. We are of the view that all the prayers now made ought to have been made by the applicant before the Supreme Court when writ petition No.879 of 1988 was disposed of with certain directions. That petition was disposed of by directions taking note of the prayers of the applicants. The prayers now made ^{is} ~~then~~ ought to have been made ^{u then} ~~then~~. The application, therefore, ^{is} barred by the principle of constructive rejudicate. Hence it is dismissed.


(DR.A.VEDAVALLI)
MEMBER(J)


23.5.15
(N.V.KRISHNAN)
VICE-CHAIRMAN(A)

CC.