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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO.402/94

New Delhi, the 19th day of August 1994

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Hon'ble Shri J.P. Sharma, Member (J)

Hon'ble Shri P.T. Thiruvengadam, Member (A)

Dr. N.K. Pal,
s/o late Shri R.K. Pal,
R/o C-148, Greater Kailash, Part-I,
New Delhi.

... Applicant

Vs.

Union of India
Service to be effected
on the Secretary to the
Govt. of India,
Ministry of Health & Family Welfare,
Department of Health,
Nirman Bhawan,
New Delhi.

... Respondent

(Mrs. Raj Km. Chopra, Advocate)

ORDER (ORAL)

Hon'ble Shri J.P. Sharma, Member (J)

The Applicant initially joined Central Health Service (CHS) as G.D.O. He was selected by regular process of recruitment for the post of Specialist, Grade-IV in CHS and offered appointment by O.M. dated 24.10.73 on the following terms and conditions.

" The post is temporary and he will be appointed on an officiating basis only. He will be on probation for a period of two years from the date of appointment which may be extended or curtailed at the discretion of the competent authority. The confirmation will depend on the officers' relative position in the overall seniority list and on the availability of a clear vacancy. During the period of probation, he will be required to undergo such training as Government may prescribe. Failure to complete the period of probation to the satisfaction of the competent authority will render him to discharge from service at any time without any notice and assigning any reason/reversion to his substantive post on which he may be retaining a lien. After the satisfactory

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completion of the period of probation the termination of the appointment will be after giving ~~the~~ months' notice on either side. The appointing authority, however, reserves the right of terminating his services forthwith or before the expiration of the stipulated period of notice by making payment of him a sum equivalent to the pay and allowances for the period of notice or the unexpired portion thereof.

The scale of pay of the post is Rs.1100-50-1500-E8-60-1800 and his initial pay will be fixed in the scale according to rules."

The applicant was placed on probation for a period of 2 years and before that period ended on 30.10.80 it was again extended for one year till 30.10.81.

There was order regarding transfer of the applicant not to his liking and he made certain representations and ultimately the respondents by the order dated 4.2.81 reverted the applicant to the post of G.D.O. Grade I of C.H.S. with immediate effect. The applicant filed earlier O.A. No. 75/87 before the Principal Bench challenging this order of reversion and by the judgement dated 24.10.91 the Division Bench dismissed the application of holding the order of 4.2.81.

2. The applicant now assails non payment of the salary of the notice pay for the month of February, 1981 in view of the fact that there is an observation in the earlier O.A. in the judgement that the order of termination has been passed against him. The applicant therefore has prayed in this application filed on 3.1.94 that he should be granted pay for the month of February to the tune of Rs.2980/- alongwith 12% per annum interest which he has calculated as Rs.8624/-. The equal amount he has claimed on the cost of inflation and doubled this amount making the claim of Rs.23,238/-.

(8)

3. On notice the Respondents contested the application that on both jurisdiction as well as limitation the application is not maintainable and further on merit too. The applicant cannot be doubly paid as he joined his substantive post in the month of February itself as G.D.O., Grade-I in C.H.S. The application is therefore totally devoid of merit and the applicant is not entitled for payment of one month's salary in lieu of notice period.

4. We heard the applicant. The contention of applicant is that by virtue of the terms and conditions of appointment in the case of termination of the service one month's notice is to be given or one month's salary in lieu of the salary that has not been paid to the applicant. A perusal of the terms and conditions of appointment goes to show that if the probation period is not successfully completed to the satisfaction of the respondents then the services be dispensed with then and there and ^{after} ~~if~~ the successful completion of the probation period only there is a condition of payment of one month's salary in lieu of notice. In our judgement referred to above, the order of reversion has been upheld on the ground that the applicant could not successfully complete the period of probation. The point raised by the applicant again this time that one year Period of probation was extended before the expiry of the laid down period cannot be gone into again, is already covered in our earlier decision.

(9)

During the course of the dictation we again put the query to the applicant as to how he can claim salary in lieu of notice and the applicant again reiterated the arguments already rejected in the earlier decision given by the Principal Bench on October, 1991. He has no other case for the grant of notice Pay.

5. The contention of the counsel for the respondents has some reason that the applicant while working on the substantive post of G.D.O. Grade-I cannot aspire to get the Pay after reversion in the garb of notice Pay of the post of Specialist, Grade-II. During the course of the argument it transpired that the applicant joined the substantive post on 13.2.81 and the applicant has admitted that he has been paid the salary of the post of Specialist, Grade-II till 12.2.81. The applicant thereafter being regularly paid the salary of the post he has joined.

6. The person is entitled to the reimbursement for the work he does, the applicant has only discharged the duties on the post of G.D.O., Grade-I and he has been paid. He has claimed notice salary on account of the order dated 4.2.81. His claim is totally untenable & untenable for the reasons given above.

(10)

It is fit case where the cost can be taxed on the applicant. However, since he has appeared in person we do not think it a proper to impose the costs on the applicant. The application is therefore dismissed as devoid of merit leaving the parties to bear their own cost.

P.J. 26

(P.T. THIRUVENGADAM)
Member (A)(J.P. SHARMA)
Member (J)

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