

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH,

...

O.A. No.1637 of 1994

New Delhi, this 24th day of April '1995.

**Mr. A. V. Haridasan, Vice Chairman(J)**

**Mr. K. Muthukumar, Member(A)**

1. Smt. Pushpa Saini  
R/o B-47, S-II, Dilshad Garden,  
Shahdara,  
DELHI.
2. Smt. Chander Kanta Kapoor,  
R/o C-1/160,  
Yamuna Vihar,  
DELHI.
3. Smt. Manju Kalgaonkar  
R/o B-2/74, Ashok Vihar,  
Phase-II,  
DELHI.
4. Shri Roy Koshy,  
R/o H-65 B, DDA Flats,  
Dilshad Garden,  
DELHI.

... Applicants

By Advocate Shri K. N. R. Pillai

versus

Government of NCT of Delhi,  
through the Secretary,  
Medical & Public Health Department,  
Old Secretariat,  
DELHI.

... Respondent

By Advocate Shri Amresh Mathur

**O R D E R (Oral)**

**Mr A. V. Haridasan, Vice Chairman**

The applicants four in number were selected for by the Director of Health Services, Delhi Administration for appointment as Laboratory Assistants in Dispensaries under the Delhi Development Authority. All of them possess besides Matriculation MLT Diploma also. They were appointed during the period between 1970-76 as ad-hoc basis. The dispensaries were taken over completely by the Delhi Administration by the year 1979. The applicant and many similar persons continued as Laboratory Assistants on ad-hoc basis. Though the Delhi Administration called the applicants for

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regularisation of their services by letter dated 22.4.1979, no further action was taken. While so a seniority list of Laboratory Staff working under different institutions under Delhi Administration as on 31.8.1992 showed several laboratory assistants recruited long after the applicants were appointed to have been promoted as Laboratory Technicians. Repeated representation of the applicants to the authorities requesting for their regularisation did not receive any response. It is under this circumstances that the applicants have filed this application for a direction to the respondents for regularising their services with effect from the date of their initial ad-hoc appointment and for considering them for promotion as Laboratory Technicians with effect from the dates their juniors were so promoted with consequential benefits.

2. The respondents in their reply have admitted that the applicants were duly selected and appointed as Laboratory Assistants during 1970-76. It is stated in the reply that in 1987 more than 50 Laboratory Assistants were regularised and that in 1993 the Director of Health Services was asked to send the report on work and conduct and ACRs of the Laboratory Assistants as the same was not complied with and the action ~~and~~ could not be completed.

They have further contended that a DPC met on 30.9.94 to consider the case of 13 Laboratory Assistants including the applicants for regularisation and that as most of them did not pass the MLT Diplomas from the recognised institution, these cases have been sent to L.G. for relaxation of recruitment qualification. Other allegations in the application are not refuted.

3. The applicants in their rejoinder have contended that since all of them have passed the MLT from recognised institutions there is no justification for delaying orders regarding their regularisation.

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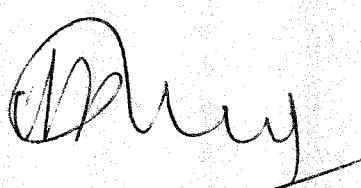
4. Having perused the pleading and having heard the counsel of either side, we found that the ~~defects~~ <sup>dispute</sup> in this case has been considerably narrowed down. It is not in dispute that the applicants who have been continuing on ad-hoc basis as Laboratory Assistants are entitled to be considered for regularisation ~~for regularisation~~ as in the case of others who were regularised in service by order in the year 1987. If the service records were not available, the fault lies not with them, but <sup>with</sup> the administration. They cannot be made to suffer on account of the inaction of the <sup>State</sup> authorities. ~~But~~ all the four applicants have acquired MLT Diploma from recognised institutions, there is no requirement of <sup>never</sup> ~~this case~~ being referred to L.G. for relaxation. Therefore, we are of the considerable view that the applicants are entitled to be considered for regularisation with effect from the date their juniors were <sup>for promotion</sup> regularised and to be considered with effect from the due dates.

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5. In result, the application is disposed of with a direction to the respondents to consider the applicants for regularisation in service as Laboratory Assistants with effect from the dates their juniors were regularised, to consider the case for promotion as Laboratory Technicians with effect from the date their juniors were promoted and to promote them notionally with effect from the relevant dates if they are not otherwise unsuitable for such promotion within a period of three months from the date of receipt of a copy of this order. No costs.

  
(K. Muthukumar)  
Member (A)

'RKS'

  
(A. V. Haridasan)  
Member (J)