

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

OA No.1907/2000

New Delhi, this the 15<sup>th</sup> day of May, 2001

HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

1. Dinesh Kumar,  
S/o Shri Satya Narayan,  
R/o 25/4, Ahir Mohalla,  
Najafgarh Road,  
Nangloai, Delhi-41
2. Bijendra Kumar,  
S/o Late Jas Ram Singh,  
R/o 147, Gali No.13,  
Balbir Nagar Extn.,  
Nala Par, Shahadara,  
Delhi : 32 ..... Applicants  
(By Advocate : Shri Apurb Lal)

V E R S U S

1. Institute of Pathology (ICMR),  
Through its Director,  
Safdarjang Hospital Campus,  
Post Box No.4909.  
New Delhi - 29
2. Director General,  
ICMR, Ansari Nagar,  
New Delhi - 29 ..... Respondents  
(By Advocate : Ms. Anuradha Priyadarshani)

O R D E R

By S.A.T. Rizvi, Member (A):

The two applicants herein seek a direction to the respondents to regularise their services as Laboratory Assistants. The respondents seek to contest the OA by filing a reply. The applicants have proceeded to file a rejoinder thereafter.

2. I have heard the learned counsel on either side and perused the material placed on record.

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3. According to them, the applicants have been working as Laboratory Assistants w.e.f. 30.9.1997 on daily wage basis though against regular vacancies. Artificial breaks have been introduced in the services rendered by them. A similarly situated person, namely, Shri P.B. Sharma has been regularised as a Laboratory Assistant and three others, namely, S/Shri Puran Chander, Rajendra Kumar and Ram Chander Dass have been regularised as Attenders. Both the applicants possess the requisite qualifications and experience and have besides already worked for more than 240 days. In fact, according to them, both the applicants have been working as Laboratory Assistants for more than 3 years. According to the applicants, they should be regularised in accordance with the judgement of the Supreme Court, which lays down that daily wagers working for a long period should be considered for regular appointment.

4. The respondents contend that the applicants were appointed as Daily Rated Contingent Charged workers and in terms of the appointment letters issued to them they can have no claim for regular appointment. The applicants were engaged for doing the work of a casual nature such as opening and closing office premises and various laboratories, distributing dak in the Institute and such other work as was assigned to them by the Scientists. None of them has laboratory experience contrary to the averment made by them and none is

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qualified for the post of Laboratory Assistant in terms of the relevant Recruitment Rules. The diploma held by the applicant No.1 is not recognised by the All India Council of Technical Education nor by the Government of India. The applicant No.2 does not have laboratory experience and instead has some experience in electrical work for which there is no vacancy as the entire electrical work is looked after by the CPWD. The respondents also submit that there is no vacant post of Laboratory Assistant available under respondent No.1. The persons named by the applicants have been regularised against the post of Attender which is the lowest rank and also an entry level post. The persons named by the applicants have been appointed against regular vacant posts. The applicants were never appointed against regular vacancies. The applicants have also not completed 240 days nor have they completed more than three years of service in the manner stated in the OA. A copy of the Recruitment Rules for the post of Laboratory Assistant has been placed on record.

5. A perusal of the appointment letters issued to the applicants reveals that the applicant No.1 was appointed on 30.9.1997 as a daily rated skilled worker for a period of 89 days. Thereafter, the same applicant was engaged as daily rated Laboratory Assistant for 89 days from 25.3.1998. Subsequently, the same applicant was again engaged as a daily rated Laboratory Assistant on 13.7.1998

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for the same period of 89 days. The same story has been repeated on 5th February, 1999 and 6th July, 2000. Like-wise, the applicant No.2 was also initially appointed as a daily rated skilled worker, whereafter as Laboratory Assistant by virtue of four different appointment letters issued to him also on the pattern of the letters issued to the applicant No.1. Thus going by the appointment letters issued/placed on record, both the applicants will be seen each to have completed about a year as Lab. Asstt. (14)

6. The relevant Recruitment Rules provide for High School certificate with one year's laboratory experience as the qualifications required for direct recruitment to the post of Laboratory Assistant. There is no requirement of a diploma for the said post. Thus it is immaterial that the diploma held by the applicant No.1 is not a recognised one. For the same reason, it is also immaterial that the diploma held by the other applicant is not relevant to the job. Insofar as the applicant No.1 is concerned, a Certificate dated 15.3.1999 has been produced in the Court which goes to show that he has been working as a Laboratory Assistant on daily wage basis since 1.10.1997. The aforesaid Certificate has been issued by the Assistant Director, Institute of Pathology, I.C.M.R, Safdarjang Hospital Campus, New Delhi. I am not prepared to accept that the aforesaid Certificate has been issued by an incompetent person as submitted by the learned counsel for the respondents.

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7. The aforesaid Recruitment Rules have admittedly come into existence in the year 2000. On instructions from the departmental representative present in the Court, the learned counsel appearing for the respondents clarified that prior to the year 2000 no executive/administrative instructions existed governing the matter of appointment of LAs etc. It has to be presumed, therefore, that prior to the year 2000 the matters were dealt with in an arbitrary manner. Insofar as the status of Shri P.B. Sharma named by the applicants in the OA is concerned, the learned counsel appearing on behalf of the respondents has again, on instructions received from the departmental representative present in the Court, clarified that the said Shri Sharma, though a daily wager initially, was subsequently appointed/regularised as Attender and later as Laboratory Assistant. Shri Jagdish Pant, the other person named in the OA also like-wise started off as a daily wager from which post he was appointed/regularised as Laboratory Assistant and has since been promoted as Laboratory Technician. The learned counsel has also clarified that at present several persons senior to the applicants are working without having been regularised. It is not the applicants' case that anyone junior to any of them has been regularised as LA.


8. In the facts and circumstances brought out in the preceding paragraphs and in paragraph 7 in particular, I find that having regard to the

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practice hitherto followed by the respondents and the provisions made in the Recruitment Rules, the applicants might be entitled to be considered for appointment/regularisation in the post of Laboratory Assistants in their turn and subject to availability of vacancies. Accordingly, I proceed to dispose of this OA by directing the respondents to consider the claims of the applicants for appointment/regularisation as LA as expeditiously as possible keeping in view the observations made in this order and the provisions made in the aforesaid Recruitment Rules, and pass a speaking order.

9. No costs.

  
(S.A.T. RIZVI)  
MEMBER (A)

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