

Central Administrative Tribunal
Principal Bench

O.A. No. 338 of 2000

New Delhi, dated this the 6th February, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Mohd. Shabid Khan,
R/o C-153, Bhagirathi Vihar,
Yamuna Vihar, Delhi.

.. Applicant

(By Advocate: Shri M.Y. Khan)

Versus

1. The Secretary (Medical),
Public Health Dept.,
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi.

2. The Director,
G.B. Pant Hospital,
Jawaharlal Nehru Marg,
New Delhi.

3. Head of the Dept.
(a) Pathology,
(b) Bio-Chemistry
(c) Micro-Biology,
G.B. Pant Hospital,
Jawahar Lal Nehru Marg,
New Delhi.

.. Respondents

(By Advocate: Mrs. Sumedha Sharma)

ORDER (Oral)

S.R. ADIGE, VC (A)

In this O.A. filed on 17.2.2000 applicant seeks quashing of the termination order dated 5.4.95 (Annexure P-6) and seeks regularisation as Lab Assistant in G.B. Pant Hospital w.e.f. that date. Alternatively he seeks a direction to include his candidature for the post of Lab Asst. and give him preference in selection for the said post as per the previous orders of the CAT, P.B. order dated 26.11.98 (Annexure P-11).

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2. On the previous date we had noted that despite several opportunities granted to respondents, they had failed to file their reply and under the circumstances, their right to file the same stood forfeited. However, they were given opportunity to make oral submissions.

3. We have heard applicant's counsel Shri M.Y. Khan and respondents' counsel Mrs. Sumedha Sharma.

4. A perusal of the impugned order dated 5.4.95 reveals that applicant along with others was appointed as Lab Asst. on purely ad hoc and emergent basis for short period of time, till he was replaced by a regularly selected candidate. The impugned order made it clear that such appointment would not confer any right upon applicant or others included in the aforesaid order for regular appointment against the post or right to seniority or other benefits.

5. The aforesaid order reveals that applicant was appointed on ad hoc basis from 14.9.94 to 27.10.94; 29.10.94 to 11.12.94; 13.12.94 to 4.2.95; 6.2.95 to 21.3.95; and 23.3.95 to 31.3.95. Applicant, however, contends that he was appointed even prior to 14.9.94, and had put in more service with the respondents right from 1990 onwards as per Para 4.4 of his O.A. It is, however, not denied that applicant was disengaged on 31.3.95.

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6. Present applicant and one another had filed O.A. No. 1590/95 which after hearing was disposed of by order dated 26.11.98. By that order respondents were directed that in case they needed to engage any person on ad hoc basis, they should consider the case of applicant giving him preference on the basis of his period of employment. It was further directed that in case applicant applied for regular appointment in response to any notification issued by the respondents, they should also consider him as per the Recruitment Rules with a stipulation that he would be granted age relaxation to the extent of service rendered by him with the respondents on ad hoc basis.

7. Applicant has contended that his client had been contacting Respondents' office from time to time regarding his appointment as Lab Assistant and had been inviting their attention to the aforesaid orders of the Tribunal. He also states that he had sent a legal notice on 17.11.99 (Annexure P-8) which elicited no response from response, but meanwhile respondents had issued advertisement dated 26.11.99 (copy enclosed with the Tribunal's order dated 26.11.98 Annexure P-11), inviting applications for various posts including that of Lab Assistant, for which the last date for receipt of applications was 27.12.99.

8. This O.A. itself has been filed much after 27.12.99, and applicant should have taken steps, to submit his application in regard to the

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aforesaid advertisement within time, but admittedly applicant did not submit any application. Applicant contends that he had no prior knowledge of the advertisement, but this cannot be accepted as adequate justification for his failure to apply in response to the advertisement.

9. No rule or instruction permits us at this stage to issue a direction to respondents to include applicant's candidature for the post of Lab Assistant. We also note that the order against which applicant has come is dated 5.4.95 but the O.A. itself has been filed on 17.2.2000 which is clearly hit by limitation u/s 21 A.T. Act. There not even any petition for condonation of delay in filing the O.A.

10. In the light of the above, we find ourselves unable to grant the relief prayed for by applicant. However, we would hope that if and when respondents make fresh recruitments to the post of Lab Assistant, applicant will be apprised of the same to enable him to make his application for appointment within the time prescribed.

11. The O.A. is disposed of in terms of Para 10 above. No costs.


(Dr. A. Vedavalli)
Member (J)


(S.R. Adige)
Vice Chairman (A)

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