

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

1. OA No.411/2000
2. OA No.413/2000

New Delhi this the 8th day of September, 2000.

Hon'ble Mr. Justice V. Rajagopala Reddy, Vice-Chairman (J)

OA NO.411/2000

S.D. Kaushik,
S/o Sh. Suraj Mal,
R/o Mohan Adda Chowk,
Village & Post Office Khera Kalan,
Delhi-110 082.

...Applicant

(By Advocate Shri K.P. Gupta)

-Versus-

1. The Secretary (Medical),
Govt. of NCT, Delhi,
5, Sham Nath Marg, Delhi.
2. The Medical Superintendent,
Lok Nayak Jai Prakash
Narayan Hospital,
New Delhi.

...Respondents

(By Advocate Shri Ajay Gupta)

OA NO.413/2000

R.P. Sharma,
S/o late Sh. Roop Ram Sharma,
R/o B-41, Lohia Nagar,
Ghaziabad, U.P.

...Applicant

(By Advocate Shri K.P. Gupta)

-Versus-

1. The Secretary (Medical),
Govt. of NCT, Delhi,
5, Sham Nath Marg, Delhi.
2. The Medical Superintendent,
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Narayan Hospital,
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...Respondents

(By Advocate Shri Ajay Gupta)

O R D E R (ORAL)

As the issues raised in both the OAs are the same, they are disposed of by a common order. However, for the sake of convenience, the facts in OA-411/2000 are referred to in brief.

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2. The order of transfer and posting of the applicant, a Pharmacist in Lok Nayak Jai Prakash Narayan Hospital (LNJP Hospital for short) to the office of the Director of Health Services (DHS) is under challenge in this OA. The case of the applicant is that he has been appointed in 1979, though on ad hoc basis, as Pharmacist in the LNJP Hospital by the Medical Superintendent, and hence he is not liable for transfer to DHS. The learned counsel for the respondents, however, submits that the hospital as well as DHS are under the Delhi Administration and the applicant is liable to be transferred to DHS and there is no illegality in the order. It is also argued that the applicant was not appointed on regular basis against a permanent vacancy and he has no right to continue in the hospital.

3. Having considered the contentions of the learned counsel for the applicant, I am unable to accept his plea. It is true that the applicant has been appointed by the Medical Superintendent of LNJP Hospital after selection was made by the Staff Selection Board. It was also stated that the applicant has been working prior to his appointment in LNJP Hospital, in DHS and that he had to resign from there to accept the appointment in LNJP Hospital and he was also treated as having been appointed afresh in the LNJP Hospital. But it should be seen that the appointment of the applicant in DHS and LNJP Hospital was purely on ad hoc basis. Unless the applicant has been regularised the question of counting the period that has been spent in DHS or in LNJP Hospital will not arise for consideration. But it is not in controversy that the LNJP Hospital as well as DHS are under the Delhi Administration. The selection by Staff Selection Board was on account of an urgency that has

arisen in 1979 and for that purpose the Pharmacists have been appointed on ad hoc basis. These facts will not take away the right of the respondents to transfer the applicant to DHS which is also a Directorate under the Government. All employees in the LNJP Hospital as well as in DHS are Government servants and they are liable for transfer by the Government from one place to another and they have no right to continue under one Directorate or one Hospital. It is also brought to my notice that the applicant has also filed an OA earlier for regularisation which has been dismissed and hence the question of regularisation cannot be re-agitated in this OA. In the circumstances, I do not find any merit in the OA.

4. The learned counsel for the applicant, however, submits that the washing allowance is not given to the applicant in DHA. I, therefore, direct the respondents to consider granting washing allowance to the applicant, if it is permitted under the rules.

5. Subject to the above direction both the OAs are dismissed. No costs.

Ambyreddy
(V. Rajagopala Reddy)
Vice-Chairman (J)

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