

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

MA No.1829/2001
MA No.2094/2001
CP No.367/2001 IN
OA No.504/2000

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New Delhi, this the 20th day of September, 2001

HON'BLE MR. JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE MR. M.P. SINGH, MEMBER (A)

Smt. Syamala S. Pillai & Others

... Applicants

(By Advocate: Shri K.L. Bhandula & Shri M.L. Ohri)

V E R S U S

1. Shri J.A. Chowdhury,
Secretary to the Govt. of India,
Ministry of Health,
Nirman Bhavan, New Delhi.
2. Shri S.P. Agarwal,
Director General of Health Services,
Govt. of India, Nirman Bhavan,
New Delhi.
3. Shri K.B. Logani,
Principal, Lady Hardinge Medical College &
Smt. S.K. Hospital, New Delhi.

... Respondents

(By Advocate: Shri K.R. Sachdeva)

ORDER (ORAL)

Justice Ashok Agarwal :

Applicants, who are five in number, had joined service of Lady Hardinge Medical College as Lower Division Clerks in the year 1986 after being sponsored by the Employment Exchange. Initially their appointment was on ad hoc basis for a period of three months or till the post were filled up on regular basis. They had been appointed on adhoc basis as they had not been selected through the Staff Selection Commission which is the normal mode of recruitment. Their services have been extended from time to time and they continue to be in service till date.

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2. Since their services were threatened to be terminated, they instituted OA No.504/2001, which was disposed of by an order dated 11.7.2000 in the following terms:-

"3. As far as the applicants are concerned, they were all youngsters and spinsters at the time of their initial appointment. They have now grown up and are in age-group of 38-39 years with, barring one, all having school going children. They have now put in 14 years of service. As far as their performance at their job is concerned that has been found to be satisfactory. No complaint has been made. In the circumstances we find that it will be too harsh and too inequitable at this late stage to ask them to go home. In any event we find that a case is made out for issuing recommendations to the respondents to once again permit them to appear for a special test to be conducted by Staff Selection Commission. While considering their claim for regular appointment through the Staff Selection Commission we hope that the Commission applies relaxed conditions and gives them the requisite relaxation on the basis of the experience gained by them during aforesaid period of 14 years. Till such time that the applicants are accordingly tested, their services should not be replaced by fresh appointees. If they fail to qualify even after complying aforesaid relaxed conditions their services will be liable to be terminated only after regularly selected candidates from the Staff Selection Commission become available. Aforesaid selections, as far as the applicants are concerned, are to be carried out expeditiously and in any event within a period of one year."

Since respondents had failed to hold a special test as directed in the aforesaid order, applicants had instituted CP No.365/2001 wherein an ad interim order was passed on 6.9.2001 after holding as follows:-

"3. That in this connection it is respectfully submitted that the above directions in the case of Syamala S.Pillai has been under consideration in this institution with S.S.C./D.P.T. The DOPT has informed that they have no proposal to hold any special examination for regularising adhoc employees. DOPT have stated that at best the applicants



may be allowed age relaxation to appear in the regular clerk grade examination conducted by the SSC. They have requested the respondents to fill a review petition in Hon'ble CAT bringing out this position, which is being done separately.

In our prima facie view, the aforesaid stand taken by the respondents, namely that there is no proposal to hold any special examination for regularising ad hoc employees itself amounts to contempt. The order is clear and unambiguous. The same directs the respondents to permit the applicants to once again appear for a special test to be conducted by the Staff Selection Commission (emphasis provided). The respondents in the teeth of the aforesaid order have proceeded to inform that there is no proposal for holding any special examination and that the applicants may be permitted to appear for the regular examination after granting age relaxation. Aforesaid stand appears to have been taken on the advice of the DOPT. The officer who is responsible for taking the aforesaid stand, in our prima facie view, is guilty of contempt. In the circumstances, the present contempt petition as also present MA are both stood over with a direction to the said concerned officer of the DOPT to remain present in person in court on the adjourned date. Stands over to 1.10.2001."


~~Since~~ After passing of the aforesaid order, respondents have issued Office Memo of 15.9.2001 (Annexure 3) whereby special qualifying examination is decided to be held on 24.9.2001. Applicants have now made a grievance that the aforesaid Office Memo does not give the applicants sufficient time to prepare themselves for appearing in the qualifying examination.

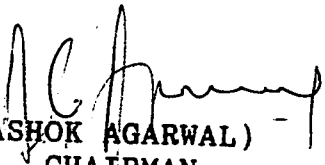
3. In our view, interest of justice will be duly met by disposing of the MA No.1829/2001, MA No.2094/2001 and CP No.367/2001 with a direction to the respondents to hold the aforesaid special qualifying examination after a period of four months from today, which will give sufficient time to applicants for preparation. The

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learned advocates appearing on behalf of the contesting parties agree for passing of the instant order.

4. The present CP No.367/2001, MA No.1829/2001 and MA No.2094/2001 are, accordingly, disposed of.


(M.P. SINGH)
MEMBER(A)


(ASHOK AGARWAL)
CHAIRMAN

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