

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 2084/89

&

O.A. NO. 2086/89

New Delhi this the 5th day of May, 1994.

Shri Justice V.S. Malimath, Chairman.

Shri P.T. Thiruvengadam, Member(A).

O.A. NO. 2084/89.

Dr. M.K. Chachondia,  
Senior Medical Officer,  
Central Government Colony,  
Civil Lines,  
Nagpur.

By Adv. Shri R.L. Sethi.

... Petitioner.

Versus

Union of India through  
the Secretary,  
Ministry of Health & Family Welfare,  
Department of Health,  
Nirman Bhavan,  
New Delhi.

... Respondent.

By Advocate Mrs. Raj Kumari Chopra.

O.A. NO. 2086/89.

Dr. B. Jena,  
Senior Medical Officer,  
P&T Dispensary,  
Kota.

... Petitioner.

By Advocate Shri R.L. Sethi.

Versus

Union of India  
through

1. The Secretary,  
Ministry of Health & Family  
Planning, Department of Health,  
New Delhi.

2. Member(P),  
Postal Services Board,  
New Delhi.

... Respondents.

By Advocate Mrs Raj Kumari Chopra.

ORDER (ORAL)

Shri Justice V.S. Malimath.

The petitioners in these two cases, Dr. M.K. Chachondia and Dr. B. Jena, were appointed as Medical

Officers Grade-II on a temporary basis. They having been selected by the Union Public Service Commission along with the 443 others in response to advertisement dated 29.9.1973, they were appointed on 24.9.74 and 30.11.74 respectively and posted at Mana Group of Transit Centres, Raipur (Dept. of Rehabilitation). The said camp was wound up and so the petitioners were treated as surplus on 13.3.1980 and 1.5.1980 respectively. They were, however, given ad hoc appointment by way of an interim measure. When such was the position, the Union Public Service Commission invited applications for the post of Junior Medical Officers Class-I, the petitioners offered themselves as candidates. They were duly selected and appointed as Junior Medical Officers Class-I, on 9.9.1980 and 24.11.1980 respectively. They were in due course promoted as Senior Medical Officers on 27.8.1987 and 7.9.1987 respectively. They were further promoted as Chief Medical Officers sometime in 1991. They made a claim before the authorities for counting the service rendered by them before their regular appointment as Junior Medical Officers Class-I for the purpose of seniority and other benefits. That claim of the petitioners having been examined and turned down, they have come up with these Original Applications.

2. The principal prayer of the petitioners is for a direction to the respondents to count the service rendered by them before their appointment as Junior Medical Officers, Class-I for the purpose of seniority and other benefits.

3. From the facts summarised above, it is obvious that the petitioners started their career as temporary Medical Officers Grade-II, they having been selected in response to the advertisement of the Union Public Service Commission dated 29.9.1973. When they became surplus on the winding up of the Camp, they were given ad hoc appointment as a temporary measure. When the posts of Junior Medical

Officers Class-I were advertised, they availed that opportunity, applied for the said posts directly and got themselves selected. In due course, they secured two promotions. The appointment which the petitioners have secured as Junior Medical Officers, Class-I, is a totally independent recruitment unconnected with the previous appointment on temporary basis as Medical Officers Grade-II after they became surplus. It is an open invitation for the posts of Junior Medical Officers, Class-I to which the petitioners offered and got themselves selected. Their seniority thus stands regulated on the basis of the relative ranking they got as Junior Medical Officers, Class-I. What the petitioners now seek is to secure disturbance of the said ranking taking into consideration the previous service. We see no principle of law which can be pressed into service. No statutory provision or order entitling such a privilege has been pressed into service. However, reliance was placed on certain directions issued by the Supreme Court in case reported in 1992(1)All India Service Law Journal, page 69 between P.P.C. Rawani & Ors. Vs. Union of India & Ors. It is enough to state that certain directions were issued in that case in the light of the difficulties that were noticed in implementing the directions earlier issued in CA 3519/84 having regard to the special facts and circumstances. No principle of law of general application by has been laid down/ the Supreme Court, as enshrined in Article 141 of the Constitution, which can be regarded as having been laid down in Rawani's case. The directions issued in that case cannot be quoted as a precedent to be followed. No principle of law of general application as such has been laid down. Only certain equitable directions have been issued having regard to the special facts and circumstances. Hence, it is not possible for us to treat the said decision as precedent

which we are bound to follow in this case.

4. The counsel for the petitioners relied upon a circular, No. A.12026/4/94-CHS.I dated 2.3.1994. This circular again does not lay down any general rule regulating seniority in such cases. Certain directions have been issued in this case in the context of a situation which had arisen in regard to ad hoc appointment and regularisation of another set of doctors. It is, therefore, not possible to place reliance on this circular either.

5. Looked at from any angle, there is no substance in these cases. Both the applications fail and are dismissed. No costs.

P. T. Thiruvengadam

(P.T. Thiruvengadam)  
Member(A)

*Malimath*

(V.S. Malimath)  
Chairman

'SRD'  
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