

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.792/89

New Delhi this the 4th Day of March, 1994.

Shri N.V. Krishnan, Vice-Chairman (A)
Shri B.S. Hegde, Member (J)

Dr.(Mrs.) Geeta Kapil,
W/o Dr. S. Kapil,
Distt. Eye Hospital,
Civil Lines,
Moradabad.Applicant

(By Advocate : Did not appear)

Versus

1. Union of India,
through Secretary,
Ministry of Health and
Family Welfare
(Department of Health)
New Delhi.
2. Director General of Health
Services, Ministry of
Health & Family Welfare,
New Delhi.
3. Director (Medical)
Department of Posts,
Ministry of Communications,
Dak Bhawan,
New Delhi.
4. General Manager,
Telecommunication, U.P. Circle,
Lucknow (U.P.).
5. Divisional Engineer, Telegraphs,
Moradabad, (U.P.)Respondents

(By Advocate Shri P.P. Khurana)

Order(Oral)

Mr. N.V. Krishnan:

Neither the applicant nor her counsel is present, though the case has been called twice. Sh. P.P. Khurana, learned counsel appears for the respondents. As this case is listed at serial No.7 of today's cause list with a note to the counsel that the first 10 cases are posted peremptorily for final hearing, in the absence of the applicant and her counsel we have heard the learned counsel for the respondents and proceed to pass final orders.

2. The applicant who was last appointed as casual Lady Medical Officer in the P & T Dispensary, Moradabad w.e.f. 25.4.85 purely on a temporary and local basis vide order dated 24.4.85 (Annexure A-5) of the fifth respondent is aggrieved by the fact that her services have been terminated abruptly and that the third respondent has rejected her representation for reinstatement by the impugned letter dated 26.8.88 (Annexure A-10).

3. The brief facts are as follows:-

3.1 The applicant was appointed from time on to time casual and ad hoc basis on daily wages. For the she was appointed first time on 5.5.80 (Annexure A-1). The appointment came to be terminated after the period, if any, specified in the appointment orders. This practice continued till 1985 when we notice that her service was terminated by an order dated 14.1.85 w.e.f. 23.1.85 (page 39 of the paperbook). She was then appointed again as casual Lady Medical Officer purely on a temporary and local basis on 24.4.85. (Annexure A-5). This stated that the appointment is likely to continue for a period of 90 days but that it could be terminated at any time without assigning any reasons.

3.2 The applicant states in paragraph 4(f) of the OA as follows:-

"That as the applicant had to go out of station suddenly, she left on 1.5.1985, with due intimation to the concerned officers. However, on return from her leave, she was shocked to see that some other doctor had been appointed in her place. The applicant, thereafter immediately contacted respondent No.5, who assured

her that the appointment of the said doctor was only for a month and that the applicant would be able to join her duties thereafter."

3.3 It is stated that ever since, she has been representing in the matter and yet nothing was done to her. A notice dated 6.2.88 (Annexure A-7) was sent to the respondents for justice and (Annexure A-8) another representation dated 7.2.88 was sent to the third respondent, citing the decision of the Supreme Court in Dr. A.K. Jain vs. Union of India. It is in response to the representation dated 7.2.88 that the impugned Annexure A-10 reply was issued by the third respondent. That reply is reproduced below:-

"Sub:-Regularisation of adhoc service of M.O.s in the light of S.C. judgement.

Sir,

I am directed to refer to your letter dated 7.2.88 on the subject cited above and to say that in order to tide over the present difficult position in running dispensaries smoothly on account of shortage of Medical Officers the appointment of M.Os on short term contract basis are being made. It is clearly stated in the appointment order that the officer will have no claim to any preferential treatment or right for selection to a regular post whatsoever on account of his/her appointment as M.O. on short term contract basis/montly wages.

Ours is one of the participating organisation in the Central Health Service, and appointments for regular posts are made by the Ministry of Health & Family Welfare on the bais of combined medical examination/interview conducted by the Union Public Service Commission. Unless you pass the examination/interview

conducted by the UPSC and are nominated to this Deptt. by the Ministry of Health & Family Welfare, you are not eligible for regular appointment.

As to the appointment of officers already working on adhoc basis in CHS in the light of judgement of Supreme Court, only those officers who were the petitioners have been regularised by the Ministry of Health & Family Welfare to Group 'B' posts, which are deemed to have been excluded from Central Health Service."

3.4 It is in these circumstances that this OA has been filed for a direction to the respondents to quash the impugned Annexure A-10 order and to direct the respondents to reinstate the applicant as a Medical Officer w.e.f. 1.5.85.

4. The respondents have filed a reply. The main contention raised is that the applicant herself had abandoned her job. She has not given particulars of her alleged leave nor has she shown as to when she was sanctioned and when she reported for duty. It is stated that on her abandonment, this purely casual appointment came to an end automatically.

5. Impugned Annexure A-10 order only informs her that a regular appointment can be made only after passing the prescribed examination after the vacancies are notified. She was also informed that the benefit of the judgment of the Supreme Court in Dr. A.K. Jain's case was given in respect of Doctors in whose favour such direction was given.

6. We have perused the record and heard the learned counsel for the respondents. He states that by her own actions the applicant has abandoned the job and there was no question of reinstating her in these circumstances.

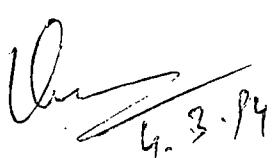
7. We notice that the applicant admits that she suddenly left her place of duty on 1.5.85 though she has been appointed again on a casual basis only a few days before that. No details are given as to how long she went on leave, why it was not possible for her to take the written permission of any authority and when she returned from leave. In fact, this application is singularly lacking in such essential details. If she had a grievance in 1985, when she returned for duty, we are unable to understand why the first representation, which is produced on record, is made only on 6.2.88.

8. In the circumstances we are of the view that the respondents were right in concluding that the applicant had abandoned her job. She has, therefore, no right to be reinstated on a casual basis again. The respondents are also on sound grounds when they state that the decision of the Supreme Court in Dr. A.K. Jain's case (1987 Supp. SCC 497) is given only to the petitioners of that judgement.

9. In the circumstances, we find no merit in the O.A. It is, accordingly, dismissed. No costs.


(B.S. HEGDE)
Member(J)

Sanju.


(N.V. KRISHNAN)
Vice-Chairman