

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA-1800/88

Date of decision: 08.05.1992

Dr. B.S. Hatta Applicant

Versus

Union of India through
Secy., Miny. of Health
and Family Welfare. Respondents

For the Applicant Shri B.K. Aggarwal, Advocate

For the Respondents Shri J.C. Madan, Advocate,
Proxy Counsel for Shri P.P.
Khurana, Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. I.K. Rasgotra, Administrative Member.

1. Whether Reporters of local papers may be allowed
to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The short point for consideration is whether the
applicant is entitled to seniority from 19.6.1972, when he
was appointed on ad hoc basis as Homoeopathic Physician.

2. The admitted factual position is that the applicant
was appointed on ad hoc basis as Homoeopathic Physician on
19.8.1972. He was, however, appointed to the said post on
regular basis w.e.f. 15.4.1977 after the U.P.S.C. had
recommended his appointment. The seniority list of temporary
Homoeopathic Physician as on 30.11.1977 was circulated among

the concerned Physicians and they were given an opportunity to make a representation within 15 days from 30.12.1977.

The applicant did not make any representation against the said seniority list. He, however, made a representation to the respondents for the first time after a lapse of nine years on 28.4.1989. In his representation, he did not challenge the seniority list of 1977. He drew attention of the respondents to a judgement of the Supreme Court in Suit No. 3519/84 and Writ Petition No. 1126/86 (Dr. P.P.C. Rawani & Others Vs. Union of India & Others) wherein the Supreme Court had held that the seniority of the Physicians should be counted from the date of their ad hoc service. The respondents have turned down the representation on the ground that the judgement relied upon by the applicant did not apply to him.

3. The respondents have raised the preliminary objection in their counter-affidavit that the application is barred by limitation and on that ground, the applicant is not entitled to the relief sought in the present application.

4. We have carefully gone through the records of the case and have considered the rival contentions. The applicant has not stated that his ad hoc appointment as Homoeopathic Physician was according to the relevant recruitment rules and that he was eligible for appointment under the Rules in 1972, when he was appointed on ad hoc basis. Apart from this, the granting of the relief sought

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in the present application at this stage, will have unsettling effect on the seniority of other Homoeopathic Physicians. The Supreme Court has held in a catena of decisions that one who feels aggrieved by the seniority assigned to him, should approach the Court as early as possible, as otherwise, in addition to the creation of a sense of insecurity in the minds of the Government servants, there would also be administrative complications and difficulties (vide K.R. Mudgal and Others Vs. R.P. Singh and Others, A.I.R., 1986 S.C. 2086; Yashbir Singh & Others Vs. Union of India and Others, A.I.R. 1988 S.C. 662).

5. A perusal of the seniority list as on 30.11.1977 at page 16 of the paper-book, would indicate that some Homoeopathic Physicians had been appointed on regular basis prior to 15.4.1977 even though they were appointed on ad hoc basis subsequent to the appointment of the applicant in 1972. This would indicate that the granting of the relief to the applicant at this stage, would have adverse consequences on those who have been given higher seniority on the basis of their regular appointment on ad hoc basis. and they have not been impleaded in this application.

6. In the light of the above, we see no merit in the present application. The application is also not maintainable on the ground that it is barred by limitation. Accordingly, the application is dismissed.

I.K. Rasgotra
(I.K. Rasgotra)
Administrative Member

Om
(P.K. Kartha)
Vice-Chairman (Judl.)