

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH:
NEW DELHI.

O.A.414/88

Date of decision: 21.9.1993

M.D. Pant:

... Petitioner.

Versus

Union of India through
The Director-General of Health Services,
Ministry of Health & Family Welfare,
New Delhi & Anr. ... Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN,
THE HON'BLE MR. S.R. ADIGE, MEMBER(A).

For the petitioner - Shri K.L. Bhatia, Counsel.
For the respondents - Shri P.P. Khurana, Counsel.

JUDGEMENT (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,
Chairman)

The petitioner has joined his career as Nursing Orderly on 23.2.1970. His date of birth is 10.1.1947. He was appointed on ad hoc basis as Junior E.C.G. Technician on 01.6.1982, in a leave vacancy. That was continued from time to time. After putting in about 5 years of service, he made a request for regularisation on 26.8.1987, Annexure A-4. But there was no response to this request. Hence, he approached the Tribunal for relief and has continued on the strength of the interim order granted during the pendency of these proceedings. The petitioner claims that even when he was appointed in the year 1982 on ad hoc basis, it was after subjecting him to a selection for direct recruitment he having been found fit and suitable for that purpose. That is denied by the respondents. They have stated that the petitioner is not eligible for direct recruitment. They have further stated

that the maximum age prescribed is 25 years and extendable upto 35 years in the case of departmental candidates. As the petitioner's date of birth is 10.1.1947, it is stated that even if 35 years is taken as a limit available to him as a departmental candidate, he is still barred by age nearly five months. These facts cannot be disputed. It is, therefore, clear that the petitioner did not satisfy the requirements of the rules for direct recruitment. The respondents have asserted that the original appointment of the petitioner was not in accordance with the rules. It was only a stop-gap arrangement in one vacancy or the other. That being the position, it is asserted that ^{the} question of regularisation of the petitioner's service does not arise. The petitioner's continuing in service after the original application was filed on the strength of the interim order cannot be taken into account. It is not possible to regularise the petitioner's services. Shri Bhatia, however, Technician submitted that until the post of Junior E.C.G./is filled up in accordance with the law, there is no good reason why the petitioner should be disturbed from the job who has been discharging his duties with devotion. This is a just and equitable direction which we should make.

2. For the reasons stated above while dismissing this application, we direct that the petitioner should not be removed from the ad hoc service as Junior E.C.G./as long as there is need for such service and until the post is filled up by regularly selected candidate. It is needless to say that the interim order passed during the pendency of these proceedings

stands automatically vacated.

3. There shall be no order as to costs.

S.R. Adige
(S.R. ADIGE)
MEMBER (A)

V.S. Malimath
(V.S. MALIMATH)
CHAIRMAN

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