

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,  
NEW DELHI.

O.A.No.598 of 1988

Date of Decision: 25.8.1993

Dr.V.B.Puri .....Applicant.

Versus

Union of India & others .....Respondents.

CORAM:

Hon'ble.Mr.C.J.Roy,Member(J)

Hon'ble Mr.S.R.Adige,Member(A)

For the applicant: Shri B.Krishan,counsel.

For the respondents: Mrs. Raj Kumari Chopra,counsel.

JUDGMENT

(By Hon'ble Mr.S.R.Adige,Member(A).)

This is an application filed by Late  
Dr. V.B.Puri,Medical Officer(Junior Class I)CGHD,  
New Delhi praying for reinstatement into service  
and for retention of residence bearing No.7-E,  
Minto Road, New Delhi. The applicant expired on 26.2.90,  
during the course of these proceedings and by this  
Tribunal's order dated 27.1.92 the prayer for  
impleadment of the legal heirs of the applicant  
was allowed. Both the parties have also admitted  
during the course of hearing that the Government  
quarter has since been vacated. Shri Krishan,  
learned counsel for the applicant prayed that this  
case be heard on merit, on the ground that if the  
application succeeded,the legal heirs would be  
entitled to certain monetary benefits. The  
application was staunchly opposed by Mrs. R.K.  
Chopra-learned counsel for the respondents.

2. The applicant's case is that he was  
appointed as Junior Medical Officer on adhoc basis  
w.e.f. 28.2.74 on the condition that the regular  
appointment would be made by the UPSC. The applicant  
rendered continuous service under CGHS, New Delhi



-2-

for the period from 28.2.74 to 30.5.84. Thereafter, he appeared before the UPSC and on their recommendation he was offered an appointment as Medical Officer under CGHS vide Memorandum dated 31.5.84 (Annexure-A3). Accordingly, the applicant resumed duty on that date itself. The applicant claims that on the basis of his pay fixation he attained the status of a regular appointee w.e.f. 28.2.74 itself. Thereafter, he proceeded on 75 days leave with prior sanction of the administrative authorities w.e.f. 15.4.85 to abroad. Thereafter, he applied for extension of leave from 1.7.85 to 30.9.85 on ground of his ill-health duly supported by medical - certificate but received Memorandum dated 12.8.85 on 27.9.85 calling upon him to report for duties immediately. In response to the said memo, the applicant stated that due to certain unavoidable circumstances he was unable to report for duty immediately and prayed for extension of leave for another five months w.e.f. 1.10.85. In the end of 1986, he visited the office of the administrative authorities for resuming his duties but he was not allowed to do so. Meanwhile, the respondents cancelled the allotment of Quarter No.7-E, Minto Road, New Delhi vide letter dated 10.4.87 and the applicant's services were also terminated vide order dated 19.1.88 (Annexure -A1) w.e.f. 1.7.85.

3. The respondents have contested the application and state that the applicant sent an application requesting for grant of 75 days earned leave from 11.3.85 to 24.5.85 (Annexure-R.1) which was subsequently revised by him. He also sought permission to leave the country. The leave of the applicant was sanctioned from 16.4.85 to 29.6.85. By order dated 14.3.85 (Annexure-R II), the applicant was permitted to visit U.K, subject to certain specific conditions including the condition that he will not



extend leave from abroad, and would not accept any employment while abroad. The applicant did not report for duty, on expiry of leave sanctioned to him. He was directed vide letter dated 15.7.85 (Annexure-R.III) to report for duty immediately, failing which necessary action would be initiated against him, but he failed to report for duty. He was again reminded vide memorandum (Annexure -RIV) but he did not comply with those instructions either and sent an application (Annexure-R.5) for extension of leave for three months w.e.f. 1.7.85 because of some unavoidable circumstances. This leave application was received in October, 1985. No mention of ill-health was made in this application, and it was not supported by any medical-certificate either. Thereafter, the applicant sent another letter dated 24.10.85 (Annexure-R.VI) which was received on 13.11.85, intimating that due to certain personal unavoidable circumstances, he would not be able to report for duty and asked for further leave for five months w.e.f. 1.10.85. Thus, as Dr. Puri remained on an unauthorised absence w.e.f. 1.7.85, and extended his stay in abroad on one pretext or the other, in contravention of the unequivocal undertaking given by him not to extend his stay or take up any assignment while abroad (Annexure-R.VII), his services were terminated by the competent authority in terms of Sub-Para (i) of Para 1 of the offer of appointment dated 31.5.84 (Annexure-A3 of the petition). The respondents have also stated that no evidence/report about Dr. Puri visiting the office of CGHS authorities for resuming duty is available. They have, therefore, contended that this application has no merit and is fit to be dismissed.



4. During arguments Shri Krishan, learned counsel for the applicant urged firstly that the applicant had been regularised as far as back in 1974<sup>AD</sup> and his services could not be terminated without giving him an opportunity to show cause. It was also urged that Rule 5(i) (a) of the <sup>M.C.C.A</sup> (Temporary Services) Rules has not been followed and hence the order of termination of service was bad in law. Thirdly, it was argued that although the termination order was dated 19.1.88 (Annexure-A1), it was made effective from 1.7.85, that is with retrospective effect, which was not permissible in law.

5. We have perused the applicant's personal file which was produced before us by the learned counsel for the respondents. It is clear from Sub-para (i) of Para 1 of Health Ministry's memo dated 31.5.84 (Photostat copy at Annexure-A3 of the petition) that the applicant was appointed as Medical Officer (Junior Class-I) under the Central Government Health Scheme on an officiating basis only, and on probation for a period of two years from the date of appointment, which could be extended or curtailed at the discretion of the competent authority. The applicant would be considered for confirmation in his turn after the satisfactory completion of probation and on the availability of a permanent vacancy. Failure to complete the period of probation to the satisfaction of the competent authority would render the candidate liable to be discharged from service at any time without any notice and without assigning any reason or reversion to substantive post on which the candidate might be retaining a lien. It is clear



that whatever service Late Dr. Puri had put in prior to this appointment, by this Memorandum dated 31.5.84, he was appointed on an officiating basis only, and was on probation for two years, during which the competent authority was empowered in terms of the appointment order to dispense with the applicant's services in the event ~~if~~ <sup>the</sup> the applicant failed to complete the period of probation to their satisfaction. Hence, the argument that the applicant rendered continuous service since 1974 and his services could not be terminated without giving him an opportunity to show cause, or that non-application of Rule 5(i) (a) of the <sup>in C.C.A</sup> (Temporary Services) Rules vitiated the action taken by the respondents has no force. In fact, the applicant has failed to produce any evidence/document showing that he visited the Office of CGHS authorities to resume duty, <sup>and this is</sup> ~~the~~ <sup>the</sup> ~~the~~ <sup>the</sup> leads to ~~an~~ <sup>an</sup> irresistible conclusion that the applicant was continuously absent from 1.7.85 and ultimately, the respondents were compelled to pass an order on 19.1.88, terminating the applicant's services from the date of his continuous absence from duty i.e. 1.7.85.

6. Under the circumstances, the action taken by the respondents is fully in order and this application is without merit. It is accordingly dismissed. No costs.

*Refolige*  
(S.R.ADIGE)  
MEMBER(A)

*Resdy*  
(C.J.ROY)  
MEMBER(J) 25/8/93

Ug.