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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.1186/88

New Delhi this the 3rd Day of December, 1993.

Hon'ble Sh. B.N. Dhoundiyal, Member(A)
Hon'ble Sh. B.S. Hegde, Member(J)

Dr.(Mrs) Kiran Sharma
W/O Dr. Shanti Kumar Mishra,
R/O 8/262, Rajinder Nagar,
Sector-III, Sahibabad,
Distt. Ghaziabad.(U.P.) Petitioner

(By advocate Sh. B.K. Aggarwal)

versus

1. Union of India
through its Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi.

2. Director General Health Scheme,
Central Govt. Health Scheme,
Nirman Bhawan, New Delhi.

3. Deputy Director, CGHS,
Central Government Health Scheme,
Nirman Bhawan, New Delhi.

(By advocate Sh. George Paracken proxy counsel
for Sh. P.P. Khurana)

ORDER(ORAL)
(delivered by Hon'ble Sh. B.N. Dhoundiyal, Member(A)

The applicant Dr.(Mrs) Kiran Sharma is a qualified physician who was selected for appointment as Ayurvedic Physician after having been sponsored by the Employment Exchange and selected by a Selection Committee consisting of 5 members including Advisor CGHS as Chairman vide letter dated 30.04.1987. She was initially appointed for a period of 90 days from the date of posting. Thereafter her turn was extended from time to time.

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On 28.6.1988 this Tribunal passed an order directing the respondents to maintain the status quo. She continued to work with CGHS under the protection of this interim order.

In the counter filed by the respondents, the main averments are these. The applicant cannot be retained in service after she attained the age of 35 years on 1.7.1988, in terms of instructions contained in circular dated 4/10.6.1985. The Recruitment Rules notified for the post of Ayurvedic Physician provide for filling up the posts of Ayurvedic Physician on regular basis through the U.P.S.C. Hence, the applicant who was appointed through the agency of Employment Exchange on monthly wage basis for a period of 90 days is required to be replaced by a regular Ayurvedic Physician approved by the U.P.S.C.

We have gone through the records of the case and heard the learned counsel for the parties. The learned counsel for the applicant has drawn our attention to the judgements of this Tribunal dated 6.1.1988 and 25.7.1991 in O.A.No.582/87 and T-699/88 respectively. In the judgement dated 6.1.1988 this Tribunal has referred to an earlier judgement in the case of Dr.(Mrs. Sangita Narang & Others Vs. Delhi Administration and Others (O.A.No.716/87) decided on 18.12.1987. In that case also junior Medical Officers were appointed on monthly wage basis with a break of one or two working days on the expiry of each spell of 90 days. It has been held by this Tribunal that the procedure laid down under the rules for appointment of

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Medical Officers through the U.P.S.C. cannot be dispensed with. However, it has been noted that the Government have the power to relax the rules relating to the age limit and may consider relaxation in age limit keeping in view the temporary service. In the case of Dr. S.K. Pathak & Ors. it was held that even when the nominees of U.P.S.C. are available in such cases the department should consider adjusting the applicants against vacant post, if any.

Respectfully reiterating the views in these judgements, we also hold that the applicant is entitled to succeed and dispose of this O.A. with the following directions:-

(i) The applicant will be allowed to appear in selection to be made by U.P.S.C. by granting her the required relaxation in age.

(ii) Her services will not be terminated till such time as vacancies exists and any of her juniors continued in the service.

There shall be no orders as to costs.

(B.S. Hegde)
Member(J)

(B.N. Dhoundiyal)
Member(A)
3/12/93

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