

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.152/2020

This the 01st day of July, 2020

**Coram : Hon'ble Shri J.V.Bhairavia, Member (J)
Hon'ble Shri A.K.Dubey, Member (A)**

Dr. Niranjan Lumbani
Son of Kakubhai Lumbani
Age – 55 years
Resident – 19, Manhar Plot,
Jagdish Apartment, 2nd Floor
Rajkot 360 311. Applicant

(By Advocate : Ms. Vilas Purani)

VERSUS

1. Union of India,
Notice to be served through
The General Manager
Western Railway, Churchgate,
Mumbai 400 020.
2. The Divisional Railway Manager
Western Railway, Kothi Compound
Rajkot 360 002.
3. Chief Medical Superintendent
Western Railway, Rajkot Division
Divisional Hospital, Rajkot.**Respondents**

(By Advocate : Shri M.J.Patel)

ORDER – ORAL

Per : Hon'ble Shri J.V. Bhairavia, Member (J)

In the instant OA, being aggrieved by the impugned order dated
18.6.2020 (Annexure A-1), the applicant has filed present OA. It is

CAT, Ahmedabad Bench

contended by the Applicant that he is working as a Medical Practitioner at Railway Hospital on contractual basis under the Scheme of “Engagement of Medical Practitioner on Contract Basis”. Since April, 2008 and time to time, his engagement has been extended as Contract Medical Practitioner (now onward in short as C.M.P.). In this regard, counsel for the Applicant submitted that by order dated 24.9.2019, Respondent No.2 i.e. Divisional Railway Manager, Western Railway, Rajkot approved his engagement as 12th term for a period of one year. Therein, it has been categorically stated that C.M.P. shall continue for a period of one year on contract basis on usual terms and conditions (Annexure A-3 refers). It is also contended by the Applicant that his 12th term as C.M.P will going to be expiry on 23.09.2020. However, vide impugned order dated 18.06.2020 (Annexure A-1), the Respondent No.2 had issued noticed and informed the Applicant that his engagement as C.M.P will discontinue w.e.f. 04.07.2020. It is also stated in the said notice that as per existing instructions issued by the Railway Board from time to time regarding engagement as well as extension of the scheme for C.M.P, the contract cannot be terminated by Railways at any time by giving 15 days notice without assigning any reason and therefore, the said impugned notice has been issued by the Respondent No.2 is required to be quash and set aside.

2. It is contended by the Applicant that the Applicant is senior most C.M.P. and since last 11 years he is rendering his service as C.M.P in the hospital/ office of the Respondents. Respondents have not applied principle of first come, last go or last come, first go. There are other junior C.M.P.s who are working and vacancies are very much available with the Respondents. Counsel for the Applicant has placed reliance upon various judgments and submitted that the Respondents have filed to maintain principles of last come, first go. It is further submitted that against the impugned notice dated 18.6.2020, the Applicant has submitted his representation dated 20.6.2020 and requested the competent authority to reconsider the said decision of his discontinuation of his service as C.M.P. (Annexure A-5 refers). Counsel for the Applicant also submitted that recognized Union of the Respondents has also submitted representations dated 23.6.2020 and 25.6.2020 and requested the competent authority to reconsider their decision since the Applicant is senior most C.M.P and has rendered dedicated service to the Respondents.

3. Counsel for the Applicant has also placed on record the circular/ letter dated 30.06.2020 issued by the Railway Board which convey that it has been decided to extend the engagement of Medical Practitioner over and above the vacancies in Indian Railway Health Service (IRHS) to meet the local requirements for handling the COVID-19 pandemic situation from 01.07.2020 to 31.12.2020 with

the same terms as contained in Board's letters dated 28.3.2020, 31.03.2020 & 01.04.2020, which is taken on record. By relying upon the said circular/ letter of Railway Board dated 30.6.2020, counsel for the Applicant submitted that at present COVID-19 pandemic situation in Gujarat is also serious and engagement/need of Doctors has been established by various circulars of the State Authority and Central Government. Under the circumstances, engagement of the Applicant as C.M.P needs to be continued even otherwise, the extended term of the Applicant is up to September, 2020. Learned counsel for the Applicant seeks liberty to submit additional representation before the respondent authorities since the Railway Board had issued circular of Engagement of Medical Practitioners (CMPs) over and above the vacancy on 30.6.2020 i.e. after filing of this OA. It is submitted by counsel for the Applicant that Applicant has made out *prima facie* case and the Applicant will be satisfied, if appropriate direction be issued to the Respondents to consider his pending representation, as also additional representation which he will be filing within three days and till it is decided, his existing contract i.e. 12th term may not be discontinued.

4. On the otherhand, Shri M.J.Patel submitted that he is appearing in this matter on behalf of the Respondents on receipt of advanced copy of the OA. He submitted that engagement of C.M.P governs under terms and conditions of the Scheme and as and when regular

UPSC Doctor is posted or available with the department, engagement of existing C.M.P. needs to be discontinued. However, he has fairly submitted that if representation in response to the impugned notice filed by the Applicant has yet not been decided, the same will be decided as expeditiously as possible.

5. Heard the learned counsel for both the parties at length. We have perused the materials available on record and considered the submissions made by the counsel for the parties, it is noticed that admittedly, the engagement of the Applicant as C.M.P. was extended vide Order dated 24.09.2019 (i.e. 12 terms) for a period of one year i.e. upto 23.09.2020, however, vide impugned notice/order dated 18.6.2020, the Respondent No.2 conveyed the Applicant's engagement as C.M.P. on contract basis stand terminated after 15 days i.e. w.e.f. 04.07.2020 (Annexure A-1 refers). In the said notice it is stated that the contract can be terminated at any time by giving 15 days notice that too without assigning any reason. At this juncture, we take note of the fact that the representation filed by the Applicant is pending for consideration before the competent authority. We also take note of recent circular / letter dated 30.06.2020 issued by the Railway Board, therein, time limit and requirement of engagement of Medical Practitioner as also C.M.P terms has been extended from 01.07.2020 to 31.12.2020 to meet the local requirement for handling the COVID-19 pandemic situation.

6. Considering the materials available on record, we dispose of the OA by granting liberty to the Applicant to file additional representation within three days from today before the Respondent No.2 and on receipt of it, the Respondent No.2 shall consider and decide the representations within fifteen days from the date of receipt of additional representation and shall communicate the decision to the Applicant. Until such decision is communicated to the Applicant, the impugned notice/ order dated 18.9.2020 be kept in abeyance.

7. With the above directions, the OA stands disposed of accordingly. No order as to costs.

8. Direct service to Respondent Nos.2 & 3 is permitted through email. Registry is also directed to serve copy of this order to Shri M.J.Patel immediately.

(A.K.Dubey)
Member (A)

(J.V.Bhairavia)
Member (J)

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