

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

Regn.No. OA-292/87

Date of decision: 5.2.1993

Dr.(Mrs.) Alka Gandhi Applicant

Versus

Employees State Insurance Respondents
Corporation.

For the Applicant Shri Ashok Agarwal, Advocate

For the Respondents Shri G.R. Nayar, Advocate

CORAM:

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

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. To be referred to the Reporters or not? *no*

JUDGEMENT

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

The grievance of the applicant relates to the termination of her services as Medical Officer in the office of the respondent. She has prayed for setting aside and quashing the impugned order of termination dated 23.4.1985 and for her reinstatement. She has also claimed emoluments in the pay-scale of Rs.700-1300 and payment of arrears to her.

2. We have gone through the records of the case and have heard the learned counsel for both the parties. The facts of the case

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are not disputed. The applicant was duly selected by a Selection Committee for the post of Insurance Medical Officer, Grade II. According to the offer of appointment given to her, the appointment was purely on a temporary and ad hoc basis for a period not exceeding 90 days from the date of her joining the E.S.I.C. She was appointed on a fixed pay of Rs. 650/- per month, in addition to the other allowances admissible to the employees drawing a basic pay of Rs. 650/-. It was stipulated in the offer of appointment dated 7.8.1984 that her services are terminable on one month's notice in writing on either side.

3. The applicant joined the aforesaid post on 18.8.1984. She worked till 15.11.1984, when her services were discontinued. After a break of a day, she was again allowed to join w.e.f. 16.11.1984 and she worked till 14.2.1985, when her services were again discontinued. After a break for a day, she was again allowed to join w.e.f. 16.2.1985 and she worked till 16.5.1985, when her services were terminated.

4. The applicant has alleged that on 16.5.1985, when her services were terminated, several other persons appointed as Medical Officers junior to her, were continued in service. While the respondents do not dispute this averment, they have stated that those who have been continued in service, had not

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completed the stipulated period in their orders of appointment.

5. The applicant has stated that this Tribunal had held in its judgement dated 18.2.1987 in the case of Dr. Prem Lata Chaudhry Vs. ESIC, reported in 1987 (3) A.T.C. 879 that the termination of the services of the applicant therein, was illegal and unconstitutional and that she was entitled to the reinstatement of her services. The appointment of Dr. Prem Lata Chaudhry was also on ad hoc basis, like that of the applicant.

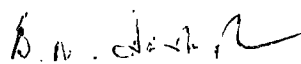
6. The respondents have stated that on 14.8.1987, the Supreme Court has passed an order staying the operation of the judgement.

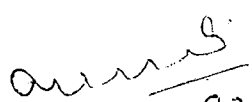
7. According to the respondents, the appointment of the applicant was in the nature of a stopgap arrangement. They have relied upon the judgements of this Tribunal dated 10.9.1992 in OA-581/87 (Shri (Dr.) Surender Singh Negi Vs. Employees State Insurance Corporation) and dated 11.12.1992 in OA-1048/87 (Dr. (Mrs.) Sunita Goel Vs. Union of India Vs. Union of India through E.S.I.C.).

8. The learned counsel for the respondents stated at the Bar that there are no vacancies at present in which the applicant could be accommodated. He also submitted

that the respondents have discontinued the practice of appointing ad hoc Medical Officers. The appointment of Medical Officers is done in accordance with the provisions of the ESIC Act, 1948 through the U.P.S.C.

9. After hearing both the sides, we are of the opinion that the applicant is not entitled to the relief sought by her. Her appointment was purely on ad hoc basis and subject to the filling up of the post in accordance with the relevant recruitment rules. Her appointment was not through the U.P.S.C. and in accordance with the relevant recruitment rules. As no vacancy of Medical Officer exists at present, we are of the opinion that no mandatory directions can be issued to the respondents in the instant case. The application is, accordingly, dismissed. There will be no order as to costs.


(B.N. Dhoundiyal) 5/2/93
Administrative Member


5/2/93
(P.K. Kartha)
Vice-Chairman(Judl.)