

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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Date of Decision : 10.09.1992

OA 581/87

Shri (Dr.) Surender Singh Negi ...Applicant

VS.

Employees State Insurance Corp. ...Respondent

CORAM :

Hon'ble Shri S.P. Mukerji, Vice-Chairman (A)

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant ...None

For the Respondents ...None

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P.SHARMA, MEMBER (J))

The applicant, by the order dt. 3.3.1986 was terminated from the post of IMO Grade II posted at Okhla dispensary of ESIC, New Delhi w.e.f. 25.3.1986. In this application, the applicant claimed the relief to quash the order of termination dt. 3.3.1986 with a direction to the respondents to reinstate the applicant in service with full back wages and further directing the respondents that the applicant be held entitled to the emoluments in the pay scale of Rs.700-1300 from the initial date of his employment. Arrears of back wages be also awarded.

The facts of the case are that the applicant was selected by a duly constituted selection committee for the post of Insurance Medical Officer Grade II and he was appointed by the Memo dt. 11.11.1985 for a period not

exceeding 90 days on purely temporary ad hoc basis. He was posted in Ajmere Gate dispensary and then was transferred to Okhla dispensary where the applicant worked till 25.3.1986. The grievance of the applicant is that the respondents have been recruiting new entrants to the post of Insurance Medical Officer and when his services were terminated, a number of juniors were retained in service. This is against the principles of natural justice where the first come last go principle has been adopted. Further it is also against the principle of equal pay for equal work because the applicant was given the basic pay of Rs.650 whereas his counterparts were paid in the regular pay scale of Rs.700-1300 with yearly increments and other benefits.

The respondents contested the application and took the preliminary objection that the present application is not maintainable because the applicant was appointed on purely temporary and ad hoc basis for a period not exceeding 90 days from the date of his joining the service. The applicant joined the respondents corporation on 26.12.1985 and his services were terminated on 25.3.1986 in accordance with the above mentioned term of the appointment. The ad hoc appointment gives no right on the post to which the incumbent is appointed in a purely temporary and ad hoc capacity as a stop gap arrangement and the termination of service of such ad hoc appointees in terms of their appointment^{letter} is perfectly legal and valid.

When the case was taken up, none of the parties or their counsel appeared and, therefore, the case is being disposed of on the basis of the material available on record. This is an old case filed by the applicant on 22.4.1987 and has been admitted on 26.6.1987. The parties are represented through their counsel and the listing of the cases in the order of their serial number in the Original Application was to be heard and copy of that order with the number of case and the name of the parties was circulated among the members of the Bar and also pasted on the notice board of the Bar Association as well as of the High Court. Thus the parties and the counsel are expected to know the date of hearing. In view of this fact, there was no need to further shelve the disposal of the case and the material on record is sufficient. The simple case of the applicant is that once he has been appointed after selection, though for a period of 90 days, then he should have been continued in his appointment instead of respondents' resorting to further direct recruitment. The applicant cannot challenge his own appointment order which he has filed as Annexure 1 to the application and this clearly lays down that the appointment of the applicant is in the pay scale of Rs.650-1200 on a purely temporary and ad-hoc basis for a period not exceeding 90 days from the date of joining. The date of appointment and date of termination has also been mentioned in the Order No.31/86. By the order dt. 3.3.1986, the services of the applicant were terminated. The applicant in the Original Application has averred that this is hire and

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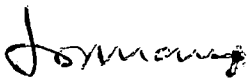
fire policy which has been condemned by the Hon'ble Supreme Court and also referred to the decision in the case of Mrs. Prem Lata Choudhary Vs. ESIC and Ors., decided on 18.2.1987. The averment in the application that the termination of the applicant is against the public policy cannot be accepted. The averment in the application that the applicant has been given the scale of pay of Rs.650-1200 also does not violate the principle of equal pay for equal work. After the termination of the applicant's services in March, 1986, the applicant has filed this application in April, 1987, i.e., after a period of one year. It was on 4.4.1987 that the applicant made the representation to the respondents. The applicant has also moved an application for condonation of delay under Section 21(3) of the Administrative Tribunals Act, 1985. Having gone through the application for condonation of delay, we do not find that any substantial cause has been made out for not preferring this application within time. The applicant himself has made representation one year after from the date of his termination-25.3.1986. But since the application is being disposed of on the basis of the record, it is also dealt with on merits. The case of the applicant is fully covered by the recent decision of the Hon'ble Supreme Court in the case of Director, Institute of Management Development, U.P. Vs. Smt. Pushpa Srivastav, reported in Judgement Today 1992 (4) SC p-489. The Hon'ble Supreme Court laid down that when appointment is purely on ad hoc and contractual basis for a limited period, then the right to

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remain in the post comes to an end after the expiry of the period. In this case, the Hon'ble Supreme Court has also distinguished the case of Jacob M. Puthuparambil & Ors. Vs. Kerala Water Authority & Ors., Judgement Today 1990 (4) SC p-27. The Lordships held that the above reported authority is based on the interpretation of Rule 9(a)(a) of Kerala State and Subordinate Service Rules, 1958 and quoted a passage of the judgement at p-569 and at p-577. After quoting the passage, the Hon'ble Supreme Court observed that there is no such rule in the case of Director, Institute of Management Development, U.P. The appointment was purely ad hoc on a contractual basis for a limited period. In the present case, the applicant was appointed only for a period less than 90 days and his services were terminated on 25.3.1986. As such he cannot claim any advantage to get permanency or acquire a temporary status in his appointment.

In view of the above facts, the present application is devoid of merit and is dismissed leaving the parties to bear their own costs.


(J.P. SHARMA)
MEMBER (J)


(S.P. MUKERJI)
VICE-CHAIRMAN (A)