

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 109 1987  
T.A. No.

DATE OF DECISION 20th April, 1987

Dr. (Mrs.) Chandra Kanta Petitioner

Applicant in person Advocate for the Petitioner(s)

Versus

The Director General, ESI Corporation Respondent

Shri D.P. Malhotra, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K.S. Puttaswamy

.. Vice Chairman

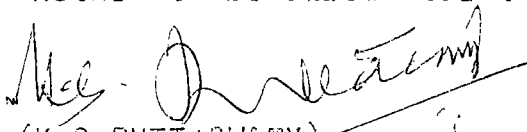
The Hon'ble Mr. V.S. Bhir

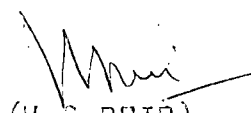
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Member (AM)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to all the Benches?

yes  
no

  
(K.S. PUTTASWAMY)  
VICE CHAIRMAN  
24/4

  
(V.S. BHIR)  
MEMBER (AM)

3.  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

Dated the 20th day of April, 1987.

Present

THE HON'BLE MR. JUSTICE K.S. PUTTASWAMY VICE CHAIRMAN  
THE HON'BLE MR. V.S. BHIR MEMBER (AM)

ORIGINAL APPLICATION NO. 109/87

Dr. (Mrs.) Chandra Kanta  
Insurance Medical Officer Gr. II  
ESIC Dispensary, Tilak Nagar,  
DELHI 110 018

Applicant.

(Applicant in person)

-Vs.-

The Director General,  
Employees State Insurance-  
Corporation, ESIC Building, Kotla Road,  
New Delhi-110 002.

Respondents.

(Shri D.P. Malhotra, Advocate for the respondent)

Application coming on for hearing this day,  
PUTTASWAMY, J. (Vice Chairman) made the following:

ORDER

This is an application made by the applicant under Sec. 19 of the Administrative Tribunals Act, 1985 ('Act').

2. The applicant with the qualification of MBBS, joined service on 13-1-1975 as a Medical Officer, Grade-II (MO) in the time-scale of Rs. 650-1200 of the Delhi Administration (DA) on an ad hoc basis.

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While working as an MO in the DA, the applicant applied to the Union Public Service Commission (UPSC) for selection to the post of an Insurance Medical Officer Gr.II (IMO) of the Employees State Insurance Corporation (ESI), which carried the time-scale of Rs.700-1300. Some time in August, 1982, the UPSC selected her to the said post and on the basis of that selection, the Director General of the ESI, New Delhi, (DG, ESI) by his Memorandum No.A-12 (14)-1/82 Estt.I(A), dated 6th August, 1982 (Annexure-V) appointed the applicant as an IMO in the ESI. In pursuance of this order, the applicant got herself relieved from the DA on 13-10-1982, and joined the ESI on 14-10-1982.

3. While appointing the applicant at the ESI, the DG had allowed her to draw only the minimum of the time-scale of Rs.700/- and not Rs.845/- she was drawing as MO at the DA, with which only she is aggrieved. The applicant claimed that her initial pay should have been fixed at not less than Rs.845/- she was drawing on a true construction of the ESIC (Staff and Conditions of Service) Regulations, 1959 ['1959 Regulations'] and the Fundamental Rules (FR). As the DG, ESI, did not accede to the same, she has approached this Tribunal under the Act, reiterating her case.

4. In justification of the pay fixed at Rs.700/-, the respondent in his reply has urged that the appointment of the applicant was on 'ad hoc basis' and therefore

she was not entitled for the benefit of Regulations 7 (3) and (4) of the Regulations and F.R. 22C.

5. Dr.(Mrs.)Chandra Kanta, who is the applicant, contends that on a true construction of Regulations 7(3) and 7(4) and F.R.22C, her initial pay should have been fixed at not less than Rs.845/- but at the very next stage in the time scale of Rs.700-1300.

6. Shri D.P.Malhotra, learned Counsel for respondent, contends that the applicant working on an ad-hoc basis in the DA, was not entitled to the benefits of Regulations 7(3) and (4) and F.R.22C, and her initial pay fixed at Rs.700/- by the DG,ESI was correct and legal.

7. When the applicant was selected by the UPSC and appointed by the DG,ESI, on the 6th August,1982, there is no dispute that she was working as an MO in the DA and that she was drawing Rs.845/- as pay. Every one of the records establish that the applicant was drawing a pay of Rs.845/- as an MO in the time-scale of Rs.650-1200, in the DA.

8. Regulation 7(3) of the 1959 Regulations, adopts the Fundamental Rules that were in force.

9. Regulation 7(4) of the 1959 Regulations, which is material, reads thus:

"The initial pay of a Govt.servant, permanent or temporary, on first appointment in the Corporation on the recommendation of the Commission or otherwise shall not be less than what would have been admissible to him, if he were appointed in a similar scale of pay under the Central Government."

Under Regulation 7(4), the initial pay of a person appointed in the ESI, who was earlier working as a Government servant on a permanent or temporary basis, shall not be less than what was admissible to him if he had been appointed on a similar scale of pay in the Central Government. The initial fixation of pay of a person appointed in the ESI, shall not be less than what he was earlier drawing before his appointment. The object of this Regulation is to safeguard the higher pay of the person who was already drawing in another department of Government or statutory corporation. The object with which this regulation has been framed is a laudable object.

10. The Delhi Administration - a Union Territory, is part and parcel of Central Government only. Even ESI, a statutory Corporation established and working under an Act of Parliament, is also part and parcel of Central Government.

11. When the applicant who had worked from 13-1-1976 to 13-10-1982 in the DA and was drawing Rs.845/- that too in a lower time-scale of pay, on her appointment in the ESI on a higher time-scale of pay, it would be somewhat odd and incongruous to fix her initial pay at any ~~time~~ <sup>amount</sup> less than she was already drawing. On principle and the requirement of Regulation 7(4) of the Regulations, the same is prohibited.


12. The term "temporary" occurring in Regulation 7(4) of the Regulations, comprehends ad hoc appointments also. An ad hoc appointment is nothing but a temporary appointment. We find it difficult to uphold the contention

of Shri Malhotra to the contrary.

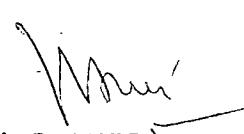
13. On the foregoing discussion, it follows that the applicant was entitled to the benefit of Regulation 7(4) of the Regulations, in fixing her <sup>initial</sup> pay in the time-scale of Rs.700-1300. If the applicant was entitled to the benefit of Regulation 7(4), then she was also entitled to the benefit of F.R.22C, also.

14. In the light of our above discussion, we direct the Director General, ESI Corporation, to refix the initial pay of the applicant in terms of Regulation 7(4) of the 1959 Regulations, and F.R. 22C, from the date she joined service in the ESI i.e., on 14-10-1982 and make her available all the differences of pay and allowances to which she is entitled to with all such expedition as is possible in the circumstances and in any event within a period of 3 months from the date of receipt of this order.

15. Application is disposed of in the above terms. But, in the circumstances of the case, we direct the parties to bear their own costs.

  
(K.S. PUTTASWAMY)  
VICE CHAIRMAN.

20-4-1987

  
(V.S. BHIR)  
MEMBER (AM)

20-4-1987