

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2573/90
T.A. No.

199

DATE OF DECISION 19.4.1991.

Dr. Keshar Bahadur

~~Petitioner~~ Applicant

Shri R. Venkataramani

Advocate for the ~~Petitioner(s)~~ Applicant

Versus

Union of India through the
Secy., M/Health & F.W. & Ors.

Respondent

Shri P.H. Ramchandani

Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

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

The applicant was appointed as a Medical Officer on ad hoc basis in the Safdarjung Hospital, New Delhi, for a period of six months w.e.f. 19.6.1989 during the strike of Resident Doctors in the Hospital in Delhi/ New Delhi, on a consolidated salary. He worked upto 30.9.1989. Thereafter, he did not work in the said Hospital upto 27.12.1990. The respondents treated his period of absence as abandonment of service, while the applicant has contended that he had duly applied for

admitted at Civil Hospital, Aizawl (Mizoram), was serious. When he went to Aizawl to meet his ailing uncle, he himself fell ill and was later diagnosed as 'Kock's Abdomen with Subacute intestinal obstruction' for which he was hospitalised on 9.10.1989. The anti-Tubercular treatment continued upto 14.11.1990 and he was discharged on 17.11.1990. Thereafter, he requested the respondents to allow him to join duty w.e.f. 19.11.1990. The respondents did not allow him to join duty.

4. The version of the respondents is that the applicant worked upto 30.9.1989 and thereafter, he absented himself from duty without any intimation/prior permission. The intimation in regard to his unauthorised absence from duty was received by the Additional Medical Supdt., Safdarjung Hospital on 4.10.1989. They have, however, admitted that on 16.10.1989, they received an application from him requesting for sanction of medical leave from 1.10.1989 to 20.10.1989. Thereafter, no intimation was received from him till 23.11.1990, when he made an application addressed to the Hon'ble Minister for Health stating that he himself fell sick and remained under treatment till 17.10.1990. In the circumstances,

a~

they proceeded on the footing that he had abandoned employment.

5. We have carefully gone through the records of the case and have considered the rival contentions. Admittedly, the applicant was one of the Medical Officers appointed on ad hoc basis during the strike period of Resident Doctors. The termination of such Doctors was challenged in OA-2314/89 and connected OAs (Dr. Gurvinder Kaur Hora & Others Vs. Union of India through the Secretary, Ministry of Health & Family Welfare). These applications were disposed of by the Tribunal in its judgement dated 2.2.1990. Subsequently, interim orders have been passed in a batch of applications on 16.7.1990 and 5.10.1990 (OA-1259/90 and connected OAs - Dr. Jitender Singh & Others Vs. Union of India & Ors.). By these interim orders, the respondents have been directed to continue the applicants (including those in whose cases relieving orders have been issued) in any hospital/ dispensary in Delhi as Medical Officers. It has further been directed that those who have not been paid their salary for the period of service rendered by them, shall also be paid their salary immediately.

α

9

6. The applicant in the instant case, is also similarly situated like the applicants mentioned above, who have been continued in service as Medical Officers on ad hoc basis by way of interim orders passed by the Tribunal. The only difference between his case and the case of the other ad hoc Medical Doctors is that he had been absent from duty for over a year due to his own sickness and that of his mother and uncle. The plea of the respondents that he abandoned service, cannot be accepted. In the case of abandonment of service, it is incumbent on the employer to give notice to the employee calling upon him to join duty within a particular period, failing which, his services would be terminated. No such inquiry was held in the instant case.

7. In the facts and circumstances of the case, we are of the opinion that in the interest of justice, the applicant should be given the same treatment as other Medical Officers appointed on ad hoc basis during the strike period. The period of absence of the applicant before he rejoined duty pursuant to the interim order passed by the Tribunal, should be regulated by grant of leave of any kind due, including

Q

leave not due in accordance with the C.C.S. (Leave) Rules, 1972. The intervening period of absence should also be reckoned as 'service' when the question of regularisation of his service in consultation with the U.P.S.C. is taken up for consideration.

There will be no order as to costs.

D.K. Chakravorty

(D.K. Chakravorty)
Administrative Member

P.K. Kartha
19/4/81

(P.K. Kartha)
Vice-Chairman(Judl.)