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**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH : NEW DELHI**

O.A. NO.1918/91

DATE OF DECISION:

22.11.91

MS. KIRAN BALA SHARMA

APPLICANT

- VERSUS -

UNION OF INDIA & ORS.

RESPONDENTS

SHRI A. K. SIKRI, COUNSEL FOR THE APPLICANT

SHRI P. P. KHURANA, COUNSEL FOR THE RESPONDENTS

**CORAM** : HON'BLE MR. JUSTICE RAM PAL SINGH, V.C. (J)  
HON'BLE MR. I. P. GUPTA, MEMBER (A)

**J U D G M E N T**

[ Hon'ble Mr. I. P. Gupta, Member (A) ]

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant joined Lady Harding Medical College and S. K. Hospital, New Delhi on 8.1.1991 as Staff Nurse. She was a permanent employee there. Her name was sponsored for Diploma in Public Health Nurse by the Punjab Nurses Registration Council. After passing the said Diploma she got herself registered with the employment exchange. While she was working at LHMC & SK Hospital, she was selected for the post of Senior Public Health Nurse (Tutor) by respondent No.2 (Rural Health Training Centre, Government of India) by following a selection process after being sponsored by the employment exchange.

2. The letter of appointment of the applicant dated 30.6.1987 is at Annexure A-1. The terms of appointment include inter alia the following provisions :

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(a) The post is on ad hoc basis liable to be terminated at any time without notice and assigning any reasons.

(b) Probation is for a period of two years;

(c) The candidate will not be permitted to apply for any post outside during the probationary period.

3. A letter was issued by RHTC on 1.8.1991 saying that the applicant was given last extension by LHMC for retaining her lien in the post of Staff Nurse upto 10.8.1991, subject to the condition that no further extension for lien will be given and the applicant will have either to resign from her service of LHMC or revert to the post of Staff Nurse. She was, therefore, directed to report for duty as Staff Nurse in her parent department before 10.8.1991 or else her lien as Staff Nurse would stand terminated. The learned counsel for the applicant pointed out that this order for termination of lien should have been issued if at all by the Delhi Administration who were retaining the lien, and the RHTC should not have issued such a communication.

4. Subsequently on representation by the applicant and on recommendation by the DGHS, the lien of the applicant was extended in LHMC for one year w.e.f. 11.8.1991, i.e., upto 10.8.1992.

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5. The applicant has prayed that her services as Senior Public Health Nurse (Tutor) should be regularised and the respondents be directed not to terminate her lien till she is regularised.

6. The learned counsel for the applicant argued that -

(a) though the letter of appointment of the applicant mentions the word 'ad-hoc', it was more or less regular in nature in view of the other provisions of the appointment letter. However, the counsel said that if at all the appointment was ad hoc it was because the recruitment rules had not yet been notified as brought out in the letter dated 7.8.1991 of the DGHS;

(b) there are regular posts sanctioned by respondent No.1 against which the applicant was appointed through an open selection through employment exchange. The applicant has worked since 1987 for more than four years:

(c) a candidate having Diploma in General Nursing (the applicant has Diploma in Public Health Nursing) though junior to the applicant, is being allowed to continue whereas the applicant was ordered to be reverted:

(d) the reasons for reversion are being mentioned differently at different times. In the memorandum of 1.8.1991, it was said that she was being reverted before termination of her lien on 10.8.1991, in the counter it was mentioned that her appointment was made on ad hoc basis to

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meet the requirements of RHTC and now she is surplus to the needs of RHTC and finally in the course of discussion even her qualification was being mentioned to determine whether she was really needed or was surplus.

7. The learned counsel for the respondents pointed out that -

(a) the appointment of the applicant was purely on ad hoc basis against one of the four posts sanctioned for the ANM Training School attached to RHTC;

(b) all the posts in the ANM Training School are temporary and are extended periodically;

(c) the teaching curriculum for the ANM course has been revised by the Government of India and this has been brought under 10+2 vocationalisation pattern. Therefore, in addition to teaching nursing service, tutors have to be engaged for teaching language and other prescribed non-nursing subjects. There used to be 40 students at the time the applicant was appointed on ad hoc basis in 1967 and now there are likely to be only 10 students and the applicant is surplus to the needs of RHTC. The respondents cannot, therefore, be compelled to employ her when there is no work for her;

(d) The order dated 1.8.1987 directing her to report for duty as Staff Nurse in LHMC was issued on a reference from the Delhi Administration regarding the lien of the applicant.

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There cannot be any objection to RHTC issuing the letter. However, her lien has now been extended upto 10.8.1992. But the fact remains that the RHTC does not need her services now.

8. Analysing the facts and issues brought out above, it is clear that the lien of the applicant has been extended upto 10.8.1992. Her appointment also shows that it was something more than 'ad hoc'. The letter of DGHS dated 7.8.1991 shows that the recommendation was for extending the lien for one year from 10.8.1991 or till the recruitment rules are notified. Thus, it is clear that though the applicant was selected for the post of Senior public Health Nurse in RHTC, her appointment was not according to any prescribed recruitment rules. But in view of the fact that her lien has been extended *and no regular selection made so far yet* now, she cannot be reverted to her old post of Staff Nurse until the post of Public Health Nurse (Senior) in RHTC continues. If the post is to be declared surplus, it has to be done by a proper order and proper instructions regarding absorption of surplus staff and in accordance with law.

9. In the circumstances, we direct that until the post the applicant is holding is abolished or declared surplus or until final selections are made on the basis of recruitment rules, whichever is earlier, she should not be reverted on the ground that her services are not required any longer, more so, when her lien has been extended upto 10.8.1992.

10. With the above direction, the case is disposed of with no order as to costs.

*I. P. Gupta*  
( I. P. GUPTA ) 22/11/91  
MEMBER (A)

*Ram Pal Singh* 22.11.91  
( RAM PAL SINGH )  
VICE CHAIRMAN (J)