

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.3112/91

Date of Decision: 01.10.1992

Dr. Sunil Abrol

Applicant

Shri B.S. Jain

Counsel for the applicant.

Versus

Delhi Administration & Ors.

Respondents.

Shri M.C. Garg

Counsel for the respondents.

CORAM:

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

The Hon'ble Mr. B.N. DHOUNDIYAL, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? *for*

2. To be referred to the Reporters, or not? *for*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAL)

This OA has been filed by Dr. Sunil Abrol, MS (General Surgery), who apprehended that an order terminating his services was to be issued by the respondents.

2. The applicant cleared his MS Examination in 1990 and was appointed as Senior Resident on ad hoc basis w.e.f. 13.10.90 in the LNJP Hospital, New Delhi. He applied for EL from 26.12.91
for

to 24.1.92 for appearing in the ECFMG Examination at Lahore.

He had obtained 'No Objection Certificate' from Additional Medical Superintendent, but instead of granting him leave, the authorities refused to grant extension of the services of the applicant w.e.f. 24.12.91. The scheme of Senior Residents provides for a tenure of three years and those serving in Hospitals under the direct control of the Government are to be treated as temporary Government servants. The applicant was considered fit and continued on adhoc basis for more than one year and thus he has a right to be regularised and continued for a period of three years i.e. upto 13.10.93, as Senior Resident. The applicant is eligible for the leave applied for, particularly, as 'No Objection Certificate' had already been given to him by the authorities. He has prayed that respondents be directed to appoint him on regular basis for full tenure of three years i.e. upto 13.10.1993.

3. On 30.12.1991, this Tribunal issued an interim order directing the respondents to allow the applicant to continue to work as Senior Resident and to consider his application for leave, if due, as per Rules. These orders have been extended from time to time, till date.

Aw

....3....

4. In MP 1398/92, the petitioner alleged that though he has been allowed to continue as Senior Resident following the interim orders of the Tribunal, he is being given a break of three days after every 44 days. These breaks would make him ineligible for applying for the post of Assistant Professor, which requires three years' experience as Senior Resident.

5. No counter has been filed by the respondents in this case though the learned counsel for the respondents Shri M.C.Garg appeared during the final hearing of the case on 03.09.1992.

6. We have gone through the records of the case and heard the learned counsel for both parties. It has been held by this Bench of the Tribunal in similar cases of Dr. Anil Kumar Rawat in OA.2847/91 and Dr. Sarika Jain in OA 2454/91 (both decided on 25.9.92) that ad hoc appointment of Senior Residents whose total term under the existing instructions is only three years cannot be continued indefinitely. Their appointments should be for a period of three years, so that, they may qualify for applying for the post of Assistant Professor.

7. We, therefore, hold that the applicant shall be allowed all privileges including leave admissible to the Senior Residents.

Bv

The period of breaks shall be ignored in computing the period served as Senior Resident. The applicant is stated to have resigned from the Residency. In the circumstances, it will be fair and just to dispose of the present application, with the direction to the respondents that, in case, the applicant chooses to reapply, he may be allowed to complete the prescribed period of Senior Residency of three years.

8. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER(A) 1/8/72

arrd
1/10
(P.K. KARTHA)
VICE CHAIRMAN(J)

kam300992