

(No. 2)

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 74/2004

New Delhi, this the 27th day of April, 2004

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI R.K. UPADHYAYA, MEMBER (A)

1. Ms. Kamlesh Sharma
Technical Supervisor
Department of Micro Biology
Maulana Azad Medical College
New Delhi.
2. Ms. Suman Kamra
Technical Supervisor
Department of Pathology
Maulana Azad Medical College
New Delhi.
3. Ms. Veena Mangla
Technical Supervisor
Department of Bio-Chemistry
Maulana Azad Medical College
New Delhi.
4. Ms. Vijay Arora
Technical Supervisor
Department of Micro Biology
Maulana Azad Medical College
New Delhi.
5. Ms. Vijay Joshi
Technical Supervisor
Department of Clinical Pathology
L.N.J.P. Hospital
New Delhi.
6. Ms. Kiran Kathuria
Technical Supervisor
Department of Clinical Pathology
L.N.J.P. Hospital
New Delhi. ... Applicants

(By Advocate: Sh. P.P. Khurana, Sr. Counsel with
Ms. Seema Pandey)

Versus

1. Govt. of NCT, Delhi
Through its Secretary (Medical)
Delhi Secretariat
Near Indira Gandhi Stadium
Vikas Marg, New Delhi.
2. Ms. Mariam M.V.
Technical Assistant
Department of Medicine
Maulana Azad Medical College
New Delhi.

3. Ms. Pramila Sangar
Technical Assistant
Department of Micro Biology
Maulana Azad Medical College
New Delhi.

4. Sh. S.R.Kaushik
Technical Assistant
Maulana Azad Medical College
New Delhi.

5. Sh. Tika Ram
Technical Assistant
Department of Anatomy
Maulana Azad Medical College
New Delhi.

6. Mrs. Pushpa Sharma
Technical Assistant
Department of Pathology
Maulana Azad Medical College
New Delhi.

7. Ms. Gulani Mamta
Technical Assistant
Department of Pathology
Guru Teg Bahadur Hospital
New Delhi.

8. Sh. U.N.Gupta
Technical Assistant
Guru Teg Bahadur Hospital
New Delhi. ... Respondents

(By Advocate: Sh. Vijay Pandita for Respondents No.1,
R-2 to 5 & Respondent No.7 in person and none for
Respondents No.6 and 8.)

ORDER

Justice V.S. Aggarwal:-

Applicants had been appointed as Technical Assistants on regular basis from March, 1988.

2. One Shri Tika Ram (respondent No.5 herein) had filed OA No.1142/1999. His grievance was that the seniority list of 26.2.1999 relating to Technical Assistant, Group-IV was not correct. This Tribunal had allowed the said application on 20.2.2001. The impugned order referred to above was quashed and respondents were directed to restore his seniority as per the final seniority list of 11.11.1996 within a

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period of three months. In pursuance of the said direction, a review Departmental Promotion Committee Meeting took place as a result of which, the applicants were reverted to the post of Technical Assistant retrospectively from the post of Technical Supervisor and Shri Tika Ram and similarly situated other persons were promoted as Technical Supervisors. The said order was passed on 5.1.2004.

3. The applicants assail the said order contending that on 21.6.1999, on the recommendations of the Departmental Promotion Committee, they had been promoted as Technical Supervisors on regular basis. Their reversion in pursuance of an order passed by this Tribunal referred to above, is illegal because they were not parties to that litigation and in any case no notice to show cause had been issued to the applicants while passing the impugned order.

4. In reply, the respondents' contention was that they were complying with the directions of this Tribunal in the OA referred to above. Not only Shri Tika Ram but other similarly situated persons were given the benefit and the impugned order has been passed as a consequence of the same. There was some dispute raised pertaining to the seniority also.

5. In the facts of the present case, it becomes unnecessary for us to delve into the said controversy. The reasons are that during the course of the submissions, it had been pointed that there were still some posts that were vacant for Technical

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Supervisor and question of reversion of the applicants did not arise. When this fact was brought to our notice, we had directed the respondents' learned counsel to inform us as to how many posts of Technical Supervisor Gr.IV were lying vacant. The respondents' learned counsel has informed us that 14 posts of Technical Supervisor are still vacant in the Department vide letter No.F.PHC/TRC/Tech.Sup./2004/7457, dated 21.4.2004, which is placed on record.

6. Applicants are only six. In normal circumstances, whenever the seniority is disturbed as a result of which some persons had to slide down, the orders have not to be withdrawn retrospectively because those persons have already rendered service against the higher post. In the present case, it is almost five years.

7. Not only that, even if we assume that private respondents were entitled to promotion as a result of the order of this Tribunal, still reversions have to be done if posts were not available. In the present case, as already referred to above, 14 posts are available of Technical Supervisor in Gr.IV. Thus, the private respondents, including Shri Tika Ram, were to be promoted. There was no necessity of reverting the applicants. In this view of the matter, the impugned order cannot be sustained. But we hasten to add that we are not expressing any opinion pertaining to the seniority question that may arise.

(Signature)

8. Resultantly, we dispose of the present application holding:

- a) the impugned order dated 5.1.2004 reverting the applicants is quashed.
- b) the applicants may be adjusted in the post of Technical Supervisors Gr.IV which are available.
- c) We are not expressing any opinion in this regard on the seniority and other questions that may arise between the parties.

R. K. Upadhyaya
(R. K. Upadhyaya)

Member (A)

V. S. Aggarwal
(V. S. Aggarwal)
Chairman

/NSN/