

Central Administrative Tribunal
Principal Bench

OA No. 107 of 2004
With
OA No. 108 of 2004

New Delhi this the 15th day of September, 2004.

Hon'ble Mr. Kuldip Singh, Vice-Chairman (J)
Hon'ble Mr. S.A. Singh, Member (A)

OA No. 107 of 2004

Smt. Sunita Mahajan,
W/o Shri S.K. Mahajan,
R/o A-126, RamParsth,
Ghaziabad (UP)

...Applicant

(By Advocate: Shri P. Chakroborty)

-versus-

1. Union of India through
Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi-110 011.
2. Lt.Governor, Delhi through
Principal Secretary (Medical)
Secretariat of Govt. of NCT of Delhi,
ITO, New Delhi-2.
3. The Dean,
Maulana Azad Medical College,
Bahadur Shah Zafar Marg,
New Delhi - 110 002.

...Respondents

(By Advocate: Shri Ajesh Luthra)

OA No. 108 of 2004

Smt. Neelam Upmanyu,
W/o Shri Pradeep Upamanyu
R/o 223, Pocket E,
Mayur Vihar, Phase-II,
Delhi - 110 091.

...Applicant

(By Advocate: Shri P. Chakroborty)

-versus-

1. Union of India through
Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi-110 011.
2. Lt. Governor, Delhi through
Principal Secretary (Medical)
Secretariat of Govt. of NCT of Delhi,
ITO, New Delhi-2.
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Maulana Azad Medical College,
Bahadur Shah Zafar Marg,
New Delhi - 110 002.

...Respondents

(By Advocate: Shri Ajesh Luthra)

ORDER (ORAL)

Hon'ble Mr. Kuldeep Singh, Vice chairman (J):

Since the issues involved in both these original applications are identical, for the sake of convenience, we are disposing of these OAs by this common order.

2. In OA No. 107/2004, the applicant has prayed for a direction to the respondents to regularize her services as Junior Orthoptist from 6.10.1983 with consequential benefits thereof and also to count her services from 11.10.1975 for the purposes of pensionary benefits and in OA No. 108/2004, the applicant is seeking direction to the respondents to regularize her services as Senior Orthoptist from 1.10.1983 with all consequential retiral benefits.

3. The facts in brief, as alleged by the applicants, are that applicant Smt. Neelam Upmanyu in OA No. 108/2004 was initially appointed as Technician Orthoptist on 13.1.1970 and she was appointed as Jr. Orthoptist w.e.f. 30.11.1974 and she was

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subsequently appointed on ad hoc basis as Senior Orthoptist w.e.f. 1.10.1983 as the incumbent of the said post, namely, Baljit Singh, had gone on leave and on his return he was not allowed to join his post and was removed from service and since then the applicant's appointment as Senior Orthoptist is being extended from time to time and till date the applicant is continuing as Senior Orthoptist.

4. Since Smt. Neelam Upmanyu, the applicant in OA No. 108/2004, occupied the post of Senior Orthoptist created by removal of Shri Baljit Singh, the applicant, namely, Sunita Mahajan, in OA No. 107/2004, was appointed as Junior Orthoptist in place of Smt. Neelam Upmanyu and her ad hoc appointment was also extended from time to time. Both the applicants have been making representations for regularization of their services as they are continuing on ad hoc basis for a period of more than 20 years.

5. Respondents have contested both the O.As.

6. The facts are not denied by the respondents, rather they admit the facts, as alleged by the applicants, but their plea is that as per recruitment rules, the post of Senior Orthoptist is to be filled by way of direct recruitment so that post could not be filled by way of promotion. It is also admitted that the case of the applicants regarding regularization of their services is still under process. Expert comments were also sought from the Services Department for regularization of their services and the Services department, after examining the case, has given certain advice to the Health Department to consider the case of the applicant, namely, Neelam Upmanyu for regularization to the post of Senior Orthoptist, which is

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still pending. Same reply has been filed in case of other applicant, namely, Suntia Mahaja.

7. Having regard to the pleadings and contentions raised by the parties, we find that since the matter is under consideration, it *also* appears quite strange that the applicants are still continuing on ad hoc basis for more than 20 years. The applicants do have a strong case for regularization of their services to the posts they are holding on ad hoc basis.

8. In these circumstances, particularly the fact that the matter is still pending consideration with the department, these OAs are disposed of with a direction to the respondents to positively pass an order in accordance with judicial pronouncements on the subject and keeping in view the long services rendered by the applicants in the department, within a period of three months from the date of receipt of a copy of this order. However, the department is at liberty to consider the advice of the Services Department before passing an appropriate order. It is made clear that respondents will not be given any further extension of time in the matter. No costs.

(S.A. Singh)
(S.A. Singh)
Member (A)

(Kuldip Singh)
(Kuldip Singh)
Vice Chairman (J)

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