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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

O.A. 1503/1992.

DATE OF DECISION: 30.3.1993.

Shri Ramesh Chand Sharma APPLICANT.

V/s.

Delhi Administration & Ors. ... Respondents.

CORAM: Hon'ble Mr. J.P. Sharma, Member (J).
Hon'ble Mr. S.R. Adige, Member (A).

Shri S.M. Garg, counsel for the applicant.
Shri D.N. Goberdhan, counsel for the respondents.

(JUDGMENT OF THE BENCH DELIVERED BY
HON'BLE MR. J.P. SHARMA, MEMBER (J))

JUDGMENT

The applicant was appointed as a Peon in the L.N.J.P.N. Hospital, New Delhi, vide order dated 11.3.1987. He was promoted as a Dresser in the pay scale of Rs.800 - 1150, vide order dated 30.3.1989. While the applicant was working as such, he took training of operating Computer. He was recommended to the Manager, Methodex System Ltd., New Delhi, by the Memo dated 6th January, 1990 and the said Company gave training to the applicant vide their Memo dated 6.6.90. The applicant also obtained a certificate of training from Sarvodaya Institute of Computer Sciences, New Delhi, having taken training from 1.9.90 to 30.12.90. The applicant thereafter was posted to man the Personal Computer in the office of the Deputy Medical Superintendent (A) by Office Order dated 16.6.90 issued by the Deputy Medical Superintendent (A). He was, however, made to understand that he shall not be paid any extra remuneration for that service. Earlier to this, by the Memo dated 8.3.90, the applicant was transferred from DMS (A) office to O.P.D. By a subsequent Memo dated 15.5.90, the applicant was transferred from O.P.D. and posted in the Personal Branch of the Dy. Medical Superintendent (A) to work on the computer with immediate effect. The grievance of the applicant, therefore, is that he is still on the lower post of Dresser which/a non-technical post and whose duties are different from that of a Computer Operator.

He has also the grievance that he is not being paid for working as a Computer Operator.

2. In this application, the applicant has prayed for grant of the following reliefs: -

- (a) To order directing the respondents to regularise the services of the applicant as Computer Operator or any other post analogous to that in which capacity he has been working since 30.3.1989.
- (b) To order directing the respondents to pay to the applicant salary for the post of Computer Operator wherein he has been working with effect from 30.3.89 and pay all the arrears of the salary of the post of Computer Operator or any other post analogous to that with effect from 30.3.89.

3. The respondents contested this application and stated that there exists no post of Computer Operator in the Hospital. The post of Computer Operator, if created, would be a 'selection' post. The applicant was asked to work at the post of Computer only on account of his liking and he was specifically told that he shall not be paid any extra remuneration. The applicant was made to work on the Computer merely as a stop-gap arrangement in addition to his usual duties.

4. We have heard the learned counsel for the parties at length and perused the record. The learned counsel for the applicant could not show that there is any post of Computer Operator in the said Department. The Recruitment Rules which have been filed by the applicant only pertain to similar post in other Departments of Delhi Administration, e.g., in the Bureau of Economics & Statistics, Delhi College of Engineering, Transport Department, Industry Department, Sales Tax Department and Directorate of Training & Technical Education. In those Departments, the scale of the post is Rs.1200-2040 and the post is a 'selection' one. The minimum qualifications prescribed are a Graduate of University with training and experience in card punching. The posts are to be filled up by promotion, failing

which by direct recruitment. However, these set of rules cannot be said to be applicable to the L.N.J.P.N. Hospital, as there is no post of Computer Operator sanctioned in that Hospital, nor the recruitment rules apply for filling up that post in that Hospital. It appears from the record that a letter had been written by the Deputy Medical Superintendent (Admn.) of L.N.J.P.N. Hospital on 8th February, 1991 to the Joint Secretary (Medical), Delhi Administration, Delhi, on the subject of computerisation of Hospital services and Administration. In this letter, sanction of certain posts are requested for. It is not the case of the applicant that any post in that particular grade has been sanctioned for the Computer Operator. Thus, the question of regularisation of the applicant does not arise when no post existed in the Hospital.

5. Learned counsel for the applicant also prayed for the grant of pay of the Computer Operator. In this connection, there is an averment in the Original Application that ever since the promotion of the applicant as Dresser, he has been made to work as Computer Operator. But this fact is not supported by the fact that the applicant has himself undergone training in June, 1990 in the Methodex Systems Ltd., and a certificate to that effect dated 6.6.90 is referred to above. Further, the applicant has also obtained a certificate from Sarvodaya Institute of Computer Sciences for getting training from 1.9.90 to 30.12.90. Thus, the applicant did not have any training certificate in March, 1989. It is another matter that the applicant was given an additional duty to operate the Computer. In fact, the Memo dated 16.6.90 clearly goes to show that the applicant was informed that he shall not be paid any extra remuneration etc. for the service. If the applicant was aggrieved by this order of 16.6.90, then he should have filed the Original Application within the period of limitation, but he did not do so. In the present Original Application also, he has not assailed this order. The

applicant accepted to work as Computer Operator while holding the post of Dresser on terms and conditions laid down in the order dated 16.6.90. He cannot, therefore, without assailing this order claim extra remuneration for the post of Computer Operator. From another angle also, it is evident that in another Department of Delhi Administration where the post of Computer Operator exists, the necessary qualification is that the incumbent must be holding a training / experience certificate in card punching. In March, 1989, the applicant was not holding such a certificate. Thus, he was not eligible even on that date to hold the post ^{of Computer Operator} in any other organisation of Delhi Administration.

6. Learned counsel for the applicant also argued that in any event, the case of the applicant be considered as and when sanction for the post is granted by the Delhi Administration. This contention of the learned counsel is pre-mature. Though the Medical Superintendent has written to Delhi Administration for creation of certain posts, but nothing has been placed on record as to the progress made in this regard. It was for the applicant to substantiate that such posts had been ordered to be created, but there is nothing on record.

7. In view of the above facts and circumstances, we find that there is no force in the application and the same is dismissed, leaving the parties to bear their own costs. However, it is observed that if subsequently any post of Computer Operator is sanctioned and created, then the applicant shall also be considered as per recruitment rules in vogue at that time.

Arif Aliq
(S.R. ADGE)
MEMBER (A)

J. P. Sharma
30.3.93
(J.P. SHARMA)
MEMBER (J)

30.3.1993.