

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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O.A.No.1579/92 Date of decision:15.10.1993.

M.P.No.2860/93

M.P.No.2861/93

Sh. V.P. Sharma & Ors. Applicants

versus

Union of India & Ors. Respondents

Coram:-

The Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman

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

For the applicants : Applicants No.3 & 5 are in person.

For the respondents : Mrs. Avnish Ahlawat, counsel

JUDGEMENT(ORAL)

(delivered by Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman)

The matter was listed before us on 14.10.1993. In the presence of Sh. D.K. Rustogi, learned counsel for the applicants, we passed an order that the matter will be listed on 15.10.93. List has been revised. The learned counsel for the applicants is not present. Applicants No.3 & 5 are present in person. We are not inclined to adjourn the hearing. Therefore, we proceed to dispose of this case finally.

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There are 5 applicants before us. The applicant No.1 Sh. V.P. Sharma has retired from service. The applicant No.2 Sh. K.C. Sharma is dead. The applicant No.3 Sh. R.D. Sharma is appearing in person. The applicant No.4 Sh. J.C. Sharma has also retired. The applicant No.5 is present in person. This application, therefore, survives only with respect to two applicants, namely, Sh. R.D. Sharma and Sh. Deshraj Wadhwa.

On 14.8.1961 S/Shri R.D. Sharma and Deshraj Wadhwa were appointed as Pharmacists in the Lok Nayak Jaya Prakash Hospital formerly known as Irwin Hospital. They are aggrieved by the order dated 3.6.1992 transferring them to the Directorate of Health Services. This order of transfer is being challenged by them.

A perusal of the order dated 3.6.1992 shows that it was passed by the Joint Secretary(Medical) with respect to 44 persons. Therefore, the order was of a general character.

The applicants have come out with the case that they were appointed as Pharmacists exclusively for the Lok Nayak Jaya Prakash Hospital and they held non transferable posts. They, therefore, urge that the impugned order has been passed without jurisdiction.

Counter-affidavit has been filed on behalf of the respondents. In it, the material averments are these. The applicants were recruited as Pharmacists in Delhi

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Administration for appointment to any hospital or CGHS dispensary in Delhi. However, they were given appointment in the Irwin Hospital known as Lok Nayak Jaya Prakash Hospital. The services of the applicants are transferable as they are employees of the Delhi Administration and Lok Nayak Jaya Prakash Hospital is one of the hospitals of the Delhi Administration. A common seniority list is maintained of the Pharmacists working under the Delhi Administration. The order of transfer has been issued keeping in view the administrative exigencies as the applicants have been working in the hospital since the time of their initial appointments.

This Tribunal on 16.6.1992 directed that the applicants may make a representation to the authority concerned and the same shall be disposed of with a speaking order.

In the counter-affidavit it is stated that the representation has been considered and the same stands rejected. However, a copy of the order rejecting the representation has not been filed. We presume that the order must be containing some reason.

Having considered the matter carefully, we are of the opinion that the applicants have not been able to establish that they were given initial appointments on a non-transferable post. It follows that they could be transferred. We have already indicated that the

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applicants have been in the Lok Nayak Jaya Prakash Hospital since the inception of their appointments. The respondents have stated that the order of transfer has been passed in the exigencies of services. No ground, therefore, exists for interference.

This application fails and is dismissed. No costs.

B.N. Dholi
(B.N. DHOUNDIYAL)

Member (A)

S.K. Dhaon
(S.K. DHAON)

Vice-Chairman

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