

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

O.A.2253/92

This the 6th June, 1996.

BA

Hon'ble Shri S.R. Adige, Member(A).

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

P.K. Wadhwa
S/o Shri Sant Ram Wadhwa
H.E.T. Grade I(S.W.)
Central Health Education Bureau,
Directorate General of Health services,
Kotla Road,
New Delhi-110002 Applicant.
(By Advocate Shri B.B.Raval)

Versus

1. Union of India, through
Secretary,
Ministry of Health & Family Welfare,
Nirman Bhavan,
New Delhi-110011.
2. The Director General of Health
Services,
Nirman Bhavan,
New Delhi-110011.
3. Shri Faujdar Singh,
Working as H.E.T. Grade I
(S.W.)AD-HOC
Central Health Education Bureau,
Kotla Road, Temple Lane,
New Delhi-110002. Respondents.
(By Advocate Shri V.K.Mehta &
Shri T.D.Yadav for Shri S.S.
Tiwari for official Rspdts.)

ORDER

Hon'ble Shri S.R.Adige, Member(A).

1. Heard.
2. The applicant's prayer for being treated

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to have been appointed on regular basis to the post of H.E.T. Grade I since the date of his initial appointment i.e. 13.8.82, cannot be granted firstly for the reason that the appointment order dated 20.8.82 (Ann. I) itself stated categorically that the appointment was ad-hoc in nature and would not bestow any claim on the applicant for regular appointment for seniority, promotion etc., and secondly, because the post itself was abolished vide order dated 13.10.88(Ann.III) consequent to the recommendation of the Staff Inspection Unit (Ministry of Finance). Respondents counsel has admitted that the actual implementation of this order abolishing this (and other) posts was delayed, but when the post is no longer in existence, the question of regularising the appointment against that post does not arise. For that reason the Maharashtra State Direct Recruits Engineers case 1990(2)SC 715, and UOI Vs. H.C. Bhatia 1995(1)ATJ 293 cited by Shri Raval does not help the applicant.

3. During the course of hearing Shri Raval contended that respondent No.3 Shri Faujdar Singh had been irregularly promoted as H.E.T. Grade I

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(Script Writing) as he was not in the feeder category prescribed under the Recruitment Rules. No such averment was made in the pleadings and hence this contention has been made outside the pleadings. Secondly we note that respondent No.3 was promoted as H.E.T. Gr.I(S.W.) on ad-hoc basis in 1977 and it was not challenged by the applicant then. He cannot do so now after a span of 19 years.

4. During hearing Shri B.B.Raval also asserted that two posts of H.E.T Gr. I had fallen vacant in 1984, consequent to the demise of S/Shri I.J. Dhingra and Lakshmi Narain and the applicant could have been adjusted against one of those posts. This contention is also outside the pleadings as there is no such averment about the above two vacancies made at any stage in the OA.

5. Under the circumstances, we find ourselves unable to grant the relief prayed for by the applicant. Before concluding however we notice that the reversion order is dated 23.10.92, while the applicant has been reverted by that order w.e.f. 31.8.92. As no stay order was passed on the OA when it was filed on 2.9.92, the respondents were not precluded from reverting the applicant, but Shri Mehta has rightly

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conceded that the reversion should not have been given retrospective effect. Under the circumstance the order dated 23.10.92 is quashed and set aside, leaving it open to the respondents to pass a revised order dated 23.10-92 reverting the applicant w.e.f. that date itself (23.10.92) and granting the applicant's pay as HET Gr.I for the period 1.9.92 to 23.10.92 subject to his having actually worked as such for that period.

6. This DA is disposed of in terms of paragraph 5 above . No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER(J)

S.R. Adige
(S.R. ADIGE)
MEMBER(A).

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