

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

...
OA No. 2854/92

New Delhi, this the 9th day of July, 1999

HON'BLE SHRI S.R.ADIGE, VICE-CHAIRMAN (A)
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

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1. Dr. (Mrs.) Anil Kumari
w/o Sh. Ashok Malhotra,
r/o B-129-130, Ramesh Nagar (DS),
New Delhi.
2. Dr. P.R. Vaid
s/o Dr. K. Roy Vaid,
r/o 11-E, Central Place,
Bengali Market, New Delhi.
3. Dr. Hoti Lals/o Bhajan Lal,
r/o K-66-D, Sheikh Sarai Phase-II,
New Delhi.Applicants
(By Advocate: Shri M.M.Sudan & Ms Geeta Luthra)

Versus

1. Lt. Governor, Delhi,
Delhi Administration,
L.G. House, Raj Niwas Marg,
New Delhi.
2. Secretary (Medical),
Medical Public Health Department,
Delhi Administration,
5, Sham Nath Marg, Delhi.
3. Director of Health Services,
Delhi Administration,
Sarswati Bhawan, Connaught Place,
New Delhi.
4. The Principal,
Nehru Homeopathic Medical College & Hospital,
Defence Colony, B-Block,
New Delhi.
5. Union Public Service commission through
Secretary,
Dhaulpur House, Shahjahan Road,
New Delhi.Respondents
(By Advocate: Shri Amresh Mathur)

O R D E R (ORAL)

By Hon'ble Shri S.R.Adie, Vice-Chairman (A)

Applicants seek quashing of the advertisement No. 20 dated 10.10.1992 and a direction restraining respondents from filling up the post of Lecturer (Homeopathic) by way of direct recruitment. They further

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seek a direction to respondents to treat them as having been regularly appointed w.e.f. 3.11.1983 with all consequently benefits of seniority etc. Alternatively, they seek a direction to respondents to regularise their services w.e.f 3.11.1983 with all consequential benefits.

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2. We have heard the learned counsel for the parties.

3. We have perused the materials on record including the affidavit dated 7.7.1999 filed by the respondents and have given the matter our careful consideration.

4. It is not denied that the applicants who were holding the substantive post of Demonstrator (Group-C) were appointed as Lecturers on ad-hoc and emergent basis vide order dated 3.11.1983. The appointments ^{^ were} ~~are~~ conditional and it was made clear that it would not confer any right to claim regular appointment to the concerned officers.

5. Thereafter the ad-hoc Assistant Professors who were holding substantive post of Lecturer were regularised vide order dated 27.6.1991. At that point of time, there was no provision for regularisation of Demonstrator (Group-C post) as Lecturers (Group-A post) in the recruitment rules and hence five posts of Lecturer were advertised by the Union Public Service Commission

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(UPSC, for short) vide advertisement dated 10.10.1992 against which the present applicants filed this O.A. on 3.11.1992.




6. In the meantime the Homeopathic Advisory Committee was constituted which gave its recommendations in 1994 which inter-alia recommended that the incumbents (18 demonstrators and 3 Lecturers on ad hoc basis) should be regularized as Medical Officer (Homeo) under Teaching sub cadre in the same pay scale, and the posts of Lecturers should be re-designated as Medical officer (Homeo) under Teaching sub cadre.

7. It is not denied that the post of Medical Officer (Homeo) under the teaching sub-cadre was created vide order dated 5.9.1997 and Govt. of N.C.T. of Delhi has obtained the approval of the UPSC for notification of the recruitment rules vide letter dated 23.2.1999.

8. Respondents have stated in their affidavit dated 7.7.1999 that these recruitment rules have a provision by which the present applicants shall be re-designated and regularised subject to fitness assessed by the UPSC as Medical Officer (Homeo) teaching at the initial constitution of the Cadre and their present seniority in the teaching cadre shall be maintained. They have also stated in the said affidavit that the basic pay, other allowances and length of service etc. shall also be protected as per the relevant service rules.

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9. We are informed by Shri Amresh Mathur,  counsel for respondents, that recruitment rules for the promotional posts of Assistant Professor (Homeo) are under active consideration of the Govt. of N.C.T. of Delhi, and the same are likely to be finalised and thereafter notified shortly. We are further informed by him that in these recruitment rules the source for filling up the posts of Assistant Professor (Homeo) is through direct recruitment, but provision is being made to absorb the Medical Officers (Homeo) in the light of recommendations of the Homeopathic Advisory Committee.

10. In this connection Shri Sudan has invited our attention to the following paragraph of the recommendations of the Homeopathic Advisory Committee, and has prayed that while finalising the recruitment rules for the post of Assistant Professor (Homeo), respondents should be asked to keep the contents of the same in view.

" The incumbents would also get opportunity for the next promotion to Assistant Professor (Homeo) through UPSC directly. In the teaching hierarchy the post of Assistant Professor should be the entry point. In case of promotion to Assistant Professor (Homeo), their previous posts of Medical Officers under teaching sub cadre should be phased out. The incumbents who are unable to qualify for Assistant Professor through UPSC should continue to be in the Medical Officer (Homeo) cadre and should be given the time bound promotions scheme suggested in respect of GDMO (H) cadre."

11. Shri Sudan has also prayed that while finalizing the aforesaid recruitment rules, respondents should also be directed to keep in view the fact that the applicants have put in continuous service as lecturers since 3.11.1983.

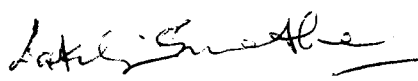
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12. Shri Amresh Mathur, counsel for respondents, has very fairly stated at the Bar that the aforesaid recommendations of the Homeopathic Advisory Committee, as well as the fact that the applicants have put in continuous service as Lecturers since 3.11.1983, will be kept in view by respondents at the time of finalization of recruitment rules.

13. Noting this assurance given by Shri Amresh Mathur, counsel for respondents at the Bar, we dispose of this OA calling upon the respondents to finalize the recruitment rules for the post of Assistant Professor (Homeo) as expeditiously as possible and preferably within six months from the date of receipt of a copy of this order. Meanwhile, if there are vacancies of Assistant Professor (Homeo) available with respondents, it is open to them to consider utilising the services of applicants against those vacancies in accordance with rules & instructions.

14. The O.A. stands disposed of accordingly.
No costs.


(Smt. Lakshmi Swaminathan)
Member (J)


(S.R. Adige)
Vice-Chairman (A)

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