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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. DA-330/92

Date of decision: 6.11.92

Dr. Suresh Kumar Poddar Applicant

Versus

Delhi Admn. & Others Respondents

For the Applicant Shri K.N.R. Pillai, Advocate

For the Respondents Shri Gajraj Singh, Advocate

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

We have gone through the records of the case and have heard the learned counsel for both the parties. The applicant, who is working as ad hoc Senior Resident in the Department of Surgery, G.T.B. Hospital under the Delhi Administration, has prayed in this application that his services should not be terminated till regular appointments are made to the post and that in any selection of Senior *Q*

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Residents under the Residency Scheme, he should be granted age relaxation to the extent of the ad hoc service put in by him.

2. On 10.2.1992, the Tribunal passed an interim order directing the respondents not to terminate the services of the applicant. This interim order has been continued till the case was finally heard and orders were reserved on the application.

3. The applicant has stated that he has taken Post-graduate Degree after M.B.B.S. and is eligible to be appointed as Senior Resident. Experience as Senior Resident for 3 years is an essential qualification for recruitment as Specialist in Hospitals and Assistant Professors in Medical Colleges. Under the rules, Senior Residents are to be appointed on a tenure for three years. But the respondents have evolved a system by which after due selection by a Selection Committee, the candidates are given ad hoc appointment for short periods at a time, usually 43 days and after a break of one day given short extensions from time to time. This ensures that they will never have security of service.

4. The applicant applied for appointment against a vacancy of Senior Resident in the Department of Surgery which was one of the departments where vacancies had been announced as per the advertisement/notice issued by the

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respondents as at Annexure A-I- This advertisement said that ad hoc appointment will be made for 43 days in the first instance. The applicant was duly selected by the Selection Committee and was offered appointment as per the offer letter at Annexure A-II. He joined on 25.11.91 and the appointment was duly notified by the order at Annexure A-III. Both the offer of appointment at Annexure A-II and the appointment order at Annexure A-III specified that the appointment will be for 43 days or till the regular incumbent joins whichever is earlier. His term of 43 days expired on 6.1.1992. After a break of one day, he along with other ad hoc Senior Residents, has been given an extension upto 13.2.1992 by the Office Order at Annexure A-IV. Extension was granted because the vacancy continues to exist and one of the terms of appointment was that it would continue till regular appointments are made. The advertisement through which the applicant had been selected had also used the words "43 days in the first instance" implying that the appointment would continue till regular arrangements are made.

5. The applicant has stated that the Medical Superintendent, G.T.B. Hospital (Respondent No.2) has issued an advertisement/notice dated 16.1.1992 for a fresh selection of ad hoc Senior Residents on 24.1.1992, wherein it has been stated that "those who are already working on ad hoc

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basis as Senior Residents in the Hospital, can also apply for their re-appointment." The applicant has stated that this is not only contrary to the earlier practice of the same Hospital of granting extensions to ad hoc Senior Residents without asking them to face a further selection along with fresh candidates from outside, but also against the decision taken by the Delhi Administration in 1991 that ad hoc Senior Residents will be continued without any break in service till regular appointments are made.

6. The applicant was obliged to apply as per the advertisement but when he went for the interview on 24.1.1992, he was told that his application is rejected as he had on 22.1.1992, i.e., two days back, crossed the age-limit fixed by the Delhi Administration of 33 years. The applicant pleaded that he had two months of ad hoc service already, that under the Residency Scheme this ad hoc service counts towards the tenure period of three years and, as such, the age-limit should be applied at the time of initial appointment as ad hoc Senior Resident and not at the time of such extension. This plea was not accepted by the 2nd respondent and the applicant's candidature was rejected.

7. The case of the respondents is that the Medical Superintendent has no power to release the upper age limit

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and that this can be done only by the Delhi Administra-
tion. We are not impressed by this contention. In case
the Medical Superintendent is not the proper authority
to grant the requisite relaxation, he should have
referred the case of the applicant to the competent
authority under the Delhi Administration. That was not
done.

8. The respondents have not stated that the work and
conduct of the applicant were not upto-the-mark. It is also
not their case that the applicant is sought to be replaced
by a regular appointee after observing the principle of
'last come, first go'. In the matter of granting of
relaxation, it is a well settled principle that the period
of service rendered by an ad hoc employee should be reckoned
and relaxation should be granted to that extent (vide
Dr. A.K. Jain Vs. Union of India, JT 1987 (4) SC 446;
Jacob M. Puthuparambil Vs. Kerala Water Authority, J.T.
1990 (4) S.C. 27.

9. In the light of the foregoing, we dispose of the
present application with the direction to the respondents
to continue the applicant in the present post of Senior
Resident and that he should not be replaced except by regularly
appointed doctors. Any such replacement should also be made
on the basis of 'last come, first go'. The interim order
passed on 10.2.92 is hereby made absolute. There will be
no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 6/11/92
Administrative Member

Paranj
6/11/92
(P.K. Kartha)
Vice-Chairman (Judl.)