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Central Administrative Tribunal
Principal Bench: New Delhi

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D.A. No. 1709/93

New Delhi, this the 12th January, 1995.

HON'BLE SHRI J.P.SHARMA, MEMBER (J)
HON'BLE SHRI B.K.SINGH, MEMBER (A)

1. Shri S.K.Kapoor s/o Shri M.R.Kapoor,
aged 41 years working as Assistant
in the Ministry of Health and Family
Welfare, New Delhi.

R/o 68-A, Sector VII, Urban Estate,
Gurgaon.

2. Shri B.B.Gupta s/o Shri Beni Prasad
aged 41 years working as Assistant
in the Ministry of Health and Family
Welfare, New Delhi.

R/o 596, Kamla Nehru Nagar, Ghaziabad.

Applicants

(By Shri K.B.S.Rajan, Advocate.

Versus

Union of India through

1. The Secretary,
Ministry of Health & Family Welfare,
Nirman Bhavan, New Delhi.

2. Secretary,
Ministry of Personnel Public Grievance &
Pensions, Deptt. of Personnel & Trg.,
Lok Nayak Bhawan, Khan Market,
New Delhi.

Respondents.

(By Shri B.K.Punj proxy
FOR Shri M.M.Sudan counsel)

JUDGEMENT (ORAL)

HON'BLE SHRI J.P.SHARMA, MEMBER (J)

The applicants have been working as Assistant in the
Ministry of Health and Family Welfare and filed this application

in August, 1993 being aggrieved by the order dated 28th October, 1992 passed by Under Secretary whereby the applicants were informed separately that their representation is receiving consideration by the respondents. However, the applicants having waited for a considerable time assailed that order and prayed for the grant of the reliefs noted below:-

(i) to appoint the applicants as Assistants on the basis from the date their juniors were so promoted.

(ii) to appoint the applicants to the Assistant's grade on long term/regular basis w.e.f. 16.7.1986, the date when their juniors were promoted.

(iii) to pay them salary and allowance alongwith arrears for the post of Assistants from the date the promotion of the juniors on ad-hoc and long term basis.

(iv) to complete consequential action in respect of all related matter immediately as per O.M. dt. 3.9.1991.

(v) to treat the applicants as having completed 5 years approved and continuous service as Assistant and accordingly to admit them to the S.Os limited Departmental competitive examination, 93.

(vi) The Hon'ble Tribunal may grant any other relief as found fit and suitable in the interest of justice,

(vii) The applicants may kindly be allowed cost of this application.

2. On notice the respondents contested this application by filing the reply and the applicants also filed rejoinder to the same.

(12)

By order dated 6th September, 1993 after hearing the learned
counsel of both the parties, a direction was also issued to the
respondents to forward the application of the petitioners to
Union Public Service Commission for admitting them in the Section
Officers' examination to be held in the year 1993. If they are
otherwise eligible including the period of service for the purpose
of eligibility. The result, however, was ordered not to be declared.

3. The case came up for hearing today when Shri K.B.S.Rajan
appears for the applicants and placed before us an order dated
9th November, 1994, issued by the Ministry of Health and Family
Welfare. By this order both Shri S.K.Kapoor and Shri B.B.Gupta
have been given appointment as Assistant on long-term basis with
effect from the dates mentioned against each i.e. from 31.5.88
and 2.12.1987 respectively. However, Shri S.K.Kapoor has also
been given proforma promotion as Assistant w.e.f. 2nd December,
1987.

4. Shri B.K.Punj appears as proxy for Shri M.M.Sudan counsel
for the respondents in this case has not disputed the genuineness
of this order ~~but~~ supported the learned counsel that the
respondents at their own level acceded to the representation
filed by the applicants which was under consideration by the
impugned order dated 28th October, 1992. This order of dated
9th November, 1994 has taken on record and is made a part of the
file.

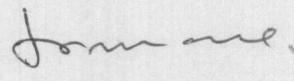
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5. In view of the above discussion, the relief prayed for by the applicants in para 8 of the application as quoted above at Nos. (i), (ii), (iv) & (v) has been allowed. As regards the relief prayed for at Sl. No. (iii) by the applicant, the applicants have now been given the appointment from the prospective dates and for the claim for arrears prayed in this O.A., they are to make the representation to the respondents in that regard in pursuance of the order dated 9th November, 1994 referred to above. In case the representation is made by the applicants, the respondents shall try to dispose of the same as expeditiously as possible. If the applicants are still aggrieved by any of the order passed by the respondents, they are at liberty to assail the same according to law, if so advised.

6. By the order dated 6.9.93 it appears that the applications of the applicants were forwarded to Union Public Service Commission to take the Section Officers' examination of the year 1993 and in fact it also appears that they had taken that examination. By virtue of the same order, it was directed that the result not to be declared. That part of the order that the result not to be declared is, therefore, vacated.

In view of the above facts and circumstances, the application is disposed of accordingly with no order as to cost.


(B.K. SINGH)
MEMBER(A)


(J.P. SHARMA)
MEMBER(J)