

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 28th day of August 1998.

Original application no. 1451 of 1997.

Hon'ble Mr. S. Dayal, Administrative Member
Hon'ble Mr. S.K. Agrawal, Judicial Member.

Dr. Vijai Shukla, S/o Sri Baj Nath Shukla, R/o 1170/42 N.
Saketpur Post Office Naveen Nagar Kanpur 208025.

... Applicant

C/A Shri B.N. Singh

Versus

1. Union of India through the Secretary Ministry of Health and Family Welfare (Department of I.S.M. & H) Govt. of India, New Delhi.
2. Director, Department of Health and Family Welfare (Department of I.S.M. & H) IRCS Building Red Cross Road, New Delhi.
3. Directory Central Government Health Scheme, Nirman Bhawan New Delhi.
4. Additional Director, Government of India Ministry of Health and Family Welfare C.G.H.S. Office 117/617, Pandu Nagar Kanpur.

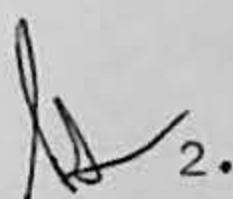
.... Respondents.

C/R

O R D E R

Hon'ble Mr. S. Dayal, Member-A.

We have heard Shri B.N. Singh on the point of admission of this case.

 2.

The applicant has come to this Tribunal for setting

5

// 2 //

aside of order dated 17.03.94 which is the order mentioning that the applicant, who was working as Store Keeper cum Clerk (Homeo), was allowed to look after the work of Homeopathic Physician at C.G.H.S. dispensary Civil Lines on ~~honorary~~ basis in addition of his own duty as Store Keeper Cum Clerk till the post was filled up on regular basis. The applicant also claims salary and other benefits admissible to Homeopathic Physician for having work on this post. The applicant also seeks directions to the respondents to send his name ^{to UPSC} /for regularisation as Homeopathic Physician. He ^{to the respondents} seeks a direction /that the applicant be regularised in ^{form} the service from the date / which other similarly placed persons were regularised.

3. The applicant has earlier filed the O.A. 1177/87 which was decided on 01.12.92. The facts mentioned in the order of the Tribunal in that case shows that the applicant was selected by Selection Committee and was to work on the post of Homeopathic Doctor, vacated on account of transfer, in addition to his own duty as store keeper cum clerk and for his work as Homeopathic Physician would not be entitled to any extra remuneration. The applicant had worked from 07.10.86 till 29.04.87 on the post of Homeopathic Physician when his appointment was withdrawn. The order in O.A. stated that the applicant had acquired no right in his favour merely because he was selected by selection committee and his application was dismissed because the applicant had failed to make out any case for the post of Homeopathic Physician. However, in the interest of patient, the order mentioned that the applicant may be allowed to continue till the candidate duly selected by U.P.S.C. does not take

6

// 3 //

over. Thus it has already been held that the applicant has no right to be appointed on the post of Homeopathic physician and there was no direction that he should be allowed to work on the post giving him salary and other benefits. The applicant was in terms of Tribunal's orders clearly allowed to work on the same post on which he was working since 07.10.86 i.e. without any remuneration and in addition to his own duty as store keeper cum clerk. The order dated 17.03.94 challenged in this case was clearly passed in the context of the judgment of this bench in O.A. 1177/87 and can not be challenged by the applicant.

4. Learned counsel's contention that there is no provision for taking honorary work for a long time without any remuneration is not applicable in this case because the applicant was basically working as store keeper cum clerk and was to attend the duty of Homeopathic Physician in addition to the said work for which he had consented. Therefore, he can be said to be working on honoray basis only.

5. Next contention of the learned counsel for the applicant that the Tribunal never intended in its order in OA 1177/87 that the respondents should take work from the applicant without remuneration. The intention of the Tribunal is clear from the order passed in the OA 1177/87 and has been discussed earlier.

6. The applicant has mentioned that the similarly placed persons have been regularised by U.P.S.C. and their names has been mentioned in paragraph 24 to 26. In response to our question as to whether the persons said to be similarly placed were also working like the applicant in the

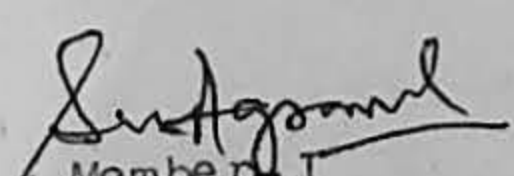
// 4 //


Government on any post and holding additional charge on the basis on which the applicant was given additional charge, learned counsel for the applicant could only mention name of one person like the applicant who had been selected by the selection Committee had left service after one year and was not among these who were regularised. Thus the ground that the persons similarly placed are regularised, is not made out.

7. Learned counsel for the applicant has also made another contention that since the applicant has become overage, he can not now apply for the post of Homeopathic physician. Since the applicant's claim for holding the post had already been adjudicated in O.A. 1177/87, this contention is not relevant any more.

8. Lastly the learned counsel for the applicant has mentioned that he should have been entitled for equal pay for equal work. The applicant was being paid for his job as store keeper cum clerk and had consented to work as Homeopathic physician without any remuneration. Hence this ground is not available to the applicant.

9. We find no merit in the application as presented to us and are of the opinion that the interest of the applicant's appointment to the post has already been adjudicated and can not be reopened.


Member-B


Member-A

/pc/