

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALIAHABAD BENCH, ALLAHABAD

O.A. No. 1433 of 1998

Allahabad, this the 12th day of March 1999.

CORAM : Hon'ble Mr. S.K.Agrawal, Member (J)
Hon'ble Mr. G.Ramakrishnan, Member (A)

Dr. R.S.Nishad, s/o. Sri Raja Ram,
Medical Officer, CGHS Dispensary No.7, Naini,
District Allahabad.

.....Applicant

(BY Shri Ranjeet Saxena, Mayank Saxena, Advocates)

Versus

1. The Union of India through
Health Secretary, Ministry of Health
& Family Welfare, Nirman Bhawan,
New Delhi.
2. The Director,
Central Government Health Scheme
(Dept. of Health),
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi.
3. The Additional Director,
Central Government Health Scheme,
Ministry of Health & Family Welfare,
Sangam Palace, Civil Lines,
Allahabad.
4. The Welfare & Cess Commissioner,
(Department of Labour)
Office of Welfare Commissioner,
Labour Welfare Organisation,
555-A/2, Mumfordganj, Allahabad.
5. The Union of India through Secretary (Labour)
Department of Labour,
Jaisalmer House,
Man Singh Road, New Delhi.

.....Respondents.

ORDER

(By Hon'ble Mr. S.K.Agrawal, Member (J))

In this Original Application the relief sought
by the applicant is to direct respondent No.1 to pass

an appropriate order regularising the applicant as Medical Officer with effect from 29-12-1987 and not from the date of issuing order dated 21-9-1994.

2. The facts of the case as stated by the applicant that the applicant was appointed as Medical Officer on 29-12-1987 on short-term basis in the office of Welfare Commissioner, Allahabad. Thereafter the applicant remained on the post on adhoc basis and ultimately he appeared before Union Public Service Commission for regularisation and Union Public Service Commission recommended him for regularisation with effect from 21-9-1994. It is stated by the applicant that the seniority of the applicant is depending upon the initial date of appointment as adhoc Medical Officer as per policy of Government vide circular No. A-12026/6/93-CHS-I dated 27-9-94. It is further submitted that under the policy of Government of India, the applicant should get seniority from the date of his initial appointment. It is, therefore, prayed that respondent No.1 be directed to pass an appropriate order regularising the applicant as Medical Officer with effect from 29-12-87 (date of his initial appointment).

3. Heard the learned lawyer for the applicant at the stage of admission. Learned lawyer for the applicant while citing number of rulings for which a separate paper book has also been submitted that applicant is entitled to seniority with effect from the date of his initial appointment on adhoc basis.

4. We are not inclined to accept the contention of the learned lawyer of the applicant because law laid down by the Apex Court of the country does not support the contention of learned lawyer for the applicant.

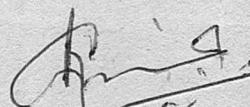
5. In Director General, E.S.I.C. and another Vs. Shri Shri Trilok Chand and others Hon'ble Supreme Court of India in SLP No.7393-96/91 decided on 10-12-1993 held that adhoc appointment without proper selection cannot be counted for seniority.

6. In Devendra Pathria and others Vs. Union of India & others, 1998 S.C.C. (L&S) 1331 the applicants were appointed on adhoc basis as Enquiry-cum-Reservation Clerk from 1978 to 1982. It was held that applicants cannot be treated senior to those who in the mean time had been appointed according to the prescribed procedure.

7. In Dr. Anuradha Bodi & others Vs. Municipal Corporation of Delhi & others 1998 S.C.C. (L&S) 1351 Hon'ble Supreme Court following Maharashtra Direct Recruit case held that the applicants are not entitle to regularisation from the date of their initial appointment on adhoc basis. In this case applicants were appointed as General Duty Officer Grade-III from 1982 to 1985 on adhoc basis and on being selected by U.P.S.C. appointed on regular basis with effect from 27-6-1991 and Hon'ble Supreme Court of India held in this case that applicants are not entitle to regularisation from the date of their initial appointments on adhoc basis.

8. On the basis of the legal prepositions we are of the considered opinion that applicant is not entitle to any relief sought for and this Original Application is devoid of any merit. Even Govt. of India letter No.A-12026/6/93-CHS-I, dated 27-9-94 also does not support the case of the applicant.

9. We, therefore, dismiss this Original Application in limine at the stage of admission.



MEMBER(A)



MEMBER(J)

/satya/