

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 5TH DAY OF FEBRUARY, 2002

Original Application No. 22 of 2001

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Dr.Manoj Dwivedi, son of
Shri Shiv Balak Dwivedi, R/o 117/81-A
'Q'Block, Sharda Nagar, Kanpur Nagr.

.. Applicant

(By Adv: Shri R.K.Sachan)

Versus

1. Director General of Ordnance Services
Master General of Ordnance Branch
Army headquarters, D.H.Q,P.O.
New Delhi.
2. Commandant, Central Ordnance
Depot, Kanpur.
3. Union of India through the
Secretary, Ministry of Defence, Govt.
of India, new Delhi.
4. Director General Armed Forces Medical
Services, Ministry of Defence
Govt. of India, New Delhi.

.. Respondents

(By Adv: Shri Ratnakar Chaudhary)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicant has
prayed for setting aside the advertisement dated
18.12.2000 issued by the respondent no.2. The case of
the applicant is that he was selected and appointed as
Medical Officer vide order dated 20.1.2000(Annexure 2)
and he is continuing on the post. It is also submitted
that the respondents have adopted the practice of making
adhoc appointments every year and one adhoc arrangement
is substituted by another adhoc arrangement, which, it is
said ^{to be} ~~to be~~ illegal and contrary to the judgements of
Hon'ble High court and Hon'ble Supreme Court.

Resisting the claim of the applicant, counter affidavit has been filed wherein it has been stated that the post of Medical officer Incharge is lying vacant since 1996 as the candidate has not been selected and recommended by Union Public Service Commission, the respondents are compelled to make adhoc arrangement. It is also submitted that Director General Armed Forces Medical Services issued an advertisement every year for making appointment for a period of one year and this practice is being continued every year. The applicant's appointment was for a period of one year and as per conditions provided in the appointment letter his engagement came to an end on 31.12.2001.

We have considered the submissions of the counsel for the parties. There can be no doubt that the respondents have compelling reasons for making adhoc arrangement to fill up the post of Medical Officer Incharge of C.O.D, Kanpur. However, this adhoc arrangement once made should ordinarily be continued until regularly selected candidate is made available by the Union public Service Commission. Hon'ble Supreme court and Hon'ble High court ^{has pronounced this legal position} in the following judgements:

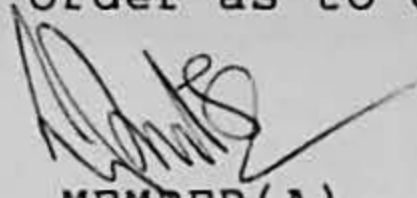
- i) R.N.Nanjudappa Vs.Thimmalah & Another
AIR 1978 SC 1767
- ii) State of Orissa Vs. Sukant, JT 1993(2) SC 579
- iii) J&K Public Service Commission & Others Vs Dr.Narendra Mohan and Ors, JT 1993(6) SC 593; and
- (iv) Subedar Singh and Others Vs. District Judge Mirzapur and others, 1997(1)ESC 655(All)(DB)
- v) Rakesh Kumar Panwar and others Vs. The State of U.P. and others (2000) 3 UPLBEC 2121

Hon'ble Supreme court and Hon'ble High court has clearly held that an adhoc employee can be replaced by a regularly selected employee and not by another adhoc employee. Thus, the practice adopted by the respondents making frequent arrangements every year is contrary to



settled legal position and the applicant is entitled for relief to the following extent.

The OA is accordingly disposed of with a direction to the respondent no.4, Director General Armed Forces Medical Services to make adhoc appointment on the basis of the advertisement recently issued on 29.11.2001 in which applicant's claim for appointment shall also be considered. However, this adhoc arrangement shall be^{continued} till the regularly selected candidates^{el} duly recommended by the Union Public Service Commission, become^{me} available. There will be no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 5th Feb: 2002

Uv/