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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

O.A. No.283 of 1997

Dr.Jai Prakash NarainApplicant.

Versus

Union of India & othersRespondents.

Hon'ble Mr.Justice U.C.Srivastava,V.C.,

Hon'ble Mr.K.Obayya,A.M.

(By Hon'ble Mr.Justice U.C.Srivastava,V.C.)

The applicant was working as a Junior Medical Officer on adhoc basis in the Dispensary of Posts & Telegraphs Department at Varanasi and he, failing to get a regular appointment which was given to the persons who, according to him, were juniors to him, approached this Tribunal praying that the respondents be directed not to terminate his services and treat the applicant's appointment on regular basis and confirm him in the grade of Junior Medical Officer. He has also prayed that the appointment orders, passed in favour of Dr. Bharti Karnad, be quashed.

2. The applicant was appointed as Junior Medical Officer on temporary and adhoc basis by the Director, Telecom.(East), Varanasi vide order dated 17.3.80. His appointment was made against the leave vacancy of Dr.P.K.Mittal on daily wages at the rate of Rs.35/- per day. The previous appointment came to an end on 21.2.80. Thereafter, he was again given appointment on daily wages at the rate of Rs.40/- per day for the period 3.11.80 to 9.11.80 and 24.11.80 to 7.12.80 against the leave vacancy. Vide order dated 24.2.81, he was given appointment as

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Medical Officer at Post & Telegraph Dispensary, Varanasi purely on temporary and adhoc basis on a fixed salary of Rs.1155/- p.m. for a period not exceeding 90 days. Thereafter, letters were issued one after another and the applicant's appointment continued but every time for 90 days. His services were terminated w.e.f. 8.7.82 and to that effect an order was issued on 19.8.82. The applicant was again given an appointment w.e.f. 10.7.82 on the same conditions and to that effect an order was also issued on 19.11.82. In the year, 1984 the applicant applied for being appointed against the clear vacancy in place of a lady Medical Officer till a lady doctor is not available and ultimately he was given temporary appointment against the post of a lady Medical Officer purely on adhoc basis on 15.1.84 and vide order dated 12.7.84, his services were terminated but again an appointment was given to him w.e.f. 13.7.84 and the process continued. The Union Public Service Commission issued an advertisement on 13.9.80 for the post of Medical Officer through which 30 years age was prescribed. The applicant also applied for the same but it was found that he was over age. He was offered a temporary appointment to serve the dispensary, that is why an appointment for 90 days was given to him. The respondents had given appointment to the applicant even though he was over age. Thus he was impliedly relaxed the age bar. No express order was passed and by their conduct and by waiving the condition while appointing him, so far as the age bar is concerned, that was agitated into the background that the plea has been taken by the respondents

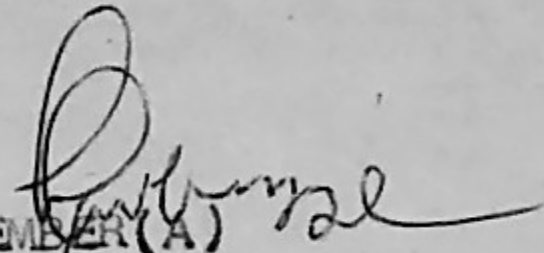
to defeat the claim of the applicant. The applicant's grievance is that his services were going to be terminated and in his place one Dr. Indu Mishra was going to be appointed. The applicant filed a writ petition before the High Court and also made representations. Even though the post of Junior Medical Officer at Varanasi, which is a permanent post, was available but the applicant was not given the appointment on the said post. Later on, the applicant came to learn that one Dr. Bharti Karnad is likely to join as Junior doctor in his place whose services were contemplated to terminate. After eight years of applicant's services, the respondents contemplated to terminate the services of the applicant when he became over-age for any Government service. So far as retention of his juniors is concerned, the respondents have not categorically denied the same. Similar matter came for our consideration in the case of 'N.K. Bhagat & others Vs. Union of India & others' (O.A.No.1294/88 decided on 15.5.92) in which case we allow^{ed}/quashing the termination order of the said doctors and directed the respondents to consider the case of the applicant for regularisation without requiring them to appear for interview but after perusal of Annual Confidential Reports within a period of four months from the date of communication of this order. This decision is based on the earlier decision in 'Dr. Hari Narain Misra Vs. Union of India' (O.A.No.186/87, decided by this tribunal on 29.1.92) in which a reference has been made to the Supreme Court's decision in 'Dr. A.K. Jain Vs. Union of India' 1988 SCC(L &S) 222. Accordingly, this application


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also deserves to be allowed and the respondents are directed not to terminate the services of the applicant and to consider the case of the applicant for regularisation without requiring him to appear in interview but after perusing the annual confidential reports within a period of four months. In case the services of the applicant have been terminated in the mean time, the termination order stands quashed and his case for regularisation shall be considered. No order as to costs.


MEMBER (A)


VICE CHAIRMAN.

DATED: JULY 7, 1992

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