

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 1499 of 1992

Dr. (Mrs.) Kumud Tandon Applicants.

Versus

Union of India & ors.
(C.G.H.S) Respondents.

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

Hon'ble Mr. A.B.Gorthi, Member-A

(By Hon'ble Mr. A.B.Gorthi, Member-A)

The applicant who was appointed as a Junior Medical Officer in the Central Health Scheme, Allahabad on 1.8.1969 on a temporary basis was granted leave from 19.7.1971 to 16.10.1971. She did not rejoin duty immediately after the expiry of the leave, but, when she wanted to report for duty on 16.12.1972, she was not allowed to do so. Aggrieved by the termination of her service, she approached the Tribunal on two earlier occasions. Vide judgement dated 1.11.1991 in O.A. No: 985 of 1991 the applicant's termination of service was declared illegal and the respondents were directed to take back the applicant in service. In the said judgement it was made clear that the applicant would not claim back wages for the period between the date of termination of her service and her rejoining duty. In the present application, the grievance of the applicant is that although she has been reinstated, the respondents have not fixed her pay and seniority properly.

2. The respondents have raised a preliminary objection to the application on the ground that on the earlier occasions also the applicant asked

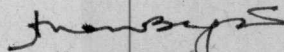
for relief with regard to ~~have~~ ^{her} seniority, but the Tribunal did not give her any relief in that regard. The applicant cannot therefore, now agitate the issue once again in the present ^{C.A.} ~~way~~ ¹ as the same is barred on the principle of resjudicata. We have examined the respondents' objection in the light of the available record. Admittedly, the applicant in her two earlier applications asked for not only to be reinstated but to be given her due seniority and pay and allowances. The judgements in both the cases however, clearly indicate that the question of (granting the applicant her seniority or her pay fixation was not commented upon nor was any decision arrived at there on. Apparently the Tribunal entertained only the single remedy of reinstatement because of the provisions of Rule 10 of C.A.T. (Procedure) Rules which lays down that an application shall ordinarily be based upon a single cause of action. We therefore find no merit in the respondents' preliminary objection.

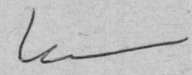
3. The applicant was appointed as a temporary servant and was not yet regularised before her services were terminated. On reinstatement, therefore, she would be once again a temporary servant only. There can be ^{no} denying the fact that the applicant joined service on 1.8.1969 and would have thus continued in service but for the illegal termination of her services. The applicant will therefore be entitled to reckon ~~ed~~ her seniority u.e.f. 1.8.1969 in her capacity as a temporary servant. As regards her pay fixation, the respondents had initially refixed the pay on her

reinstatement at Rs. 375/- per month, ^{hence} her pay ^e
should have therefore been ~~been~~ refixed correspondingly
in the revised scale. Our attention has not been
^{drawn} ~~wrong~~ to any specific Rule or instruction under
which the respondents ^{could have} ~~had~~ fixed the pay of the ^e
applicant at the minimum in the revised scale. In ^e
refixing her pay on being reinstated ~~at~~, the period
of prior service rendered by the applicant cannot
be ignored.

4. Keeping in view our above observations,
the respondents are hereby directed to assign the
applicant her due seniority and also to refix
her pay in the revised scale keeping in view the
service rendered by her in the past.

5. The application is disposed of in the
above terms. There shall be no order as to cost.


Member-A


Vice-Chairman

Allahabad Dated: 7.5.93

/jw/