

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 27th July, 2004.

QUORUM : HON. MR. JUSTICE S.R. SINGH, V.C.

O.A. No. 16 of 2000

(M.A.No.2218 and M.A.-Rest.Appn. No.2219/04)

Dr. G.T. Thawani son of Sri T. Thawani, Medical Officer,
C.G.H.S. Dispensary, R.K. Nagar, Kanpur..... ..Applicant.

Counsel for applicant : Sri Arun Kumar.

Versus

1. Union of India through Secretary, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi.
2. The Director, C.G.H.S., Directorate General of Health Service, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi.
3. Deputy Director, C.G.H.S., 117617, Pandu Nagar, Kanpur.
..... ..Respondents.

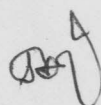
Counsel for respondents : Sri A. Sthalekar.

O R D E R (ORAL)

BY HON. MR. JUSTICE S.R. SINGH, V.C.

Heard Sri Arun Kumar, learned counsel for applicant and Sri A. Sthalekar, learned counsel for respondents.

2. The O.A. was dismissed in default vide order dated 16.1.2001. It was restored by order dated 15.5.2001 but again O.A. came to be dismissed in default vide order dated 4.12.2001. Restoration application came to be filed on 5.7.2004 along with a **delay condonation** application. In the affidavit filed in support of the delay condonation application, it has been alleged that copy of the order dismissing the O.A. in default on 4.12.2001 was never served to the applicant or his counsel. The applicant, ^{came to} to know of the order in the month of April 2004 and then he applied for a certified copy of the order which was made available on 22.4.2004. The fact that copy was not sent to the applicant or his counsel finds support from the office note



dated 22.7.2004. There is no objection to the delay condonation application. In the circumstances, therefore, the delay condonation application as also the restoration application are allowed. Delay in filing the restoration application is condoned and the restoration application is allowed. The order dated 4.12.2001 is recalled and the O.A. is restored to its original number and the same is being taken ^{up} for final disposal with the consent of the parties.

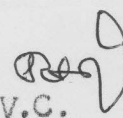
3. The applicant, a medical practitioner, was initially appointed on ad-hoc basis vide order dated 23.7.1976. His services came to be regularised pursuant to the judgment and order of the Hon'ble Supreme Court in Civil Appeal No.3519 of 1984 decided on 9.4.1987. Earlier also the applicant instituted O.A. No.963/90 which was disposed of with a direction to the competent authority to decide the applicant's representation in respect of his claim regarding the Post Graduate Allowance of Rs.200/- per month w.e.f. 17.12.1976 to 31.10.1991. The applicant ^{has} also prayed for issuance of direction to the respondents to pay Annual Allowance (Contingency Allowance) retrospectively w.e.f. 1.10.1986 in addition to the Post Graduate allowance. Submission made by the learned counsel is that since the services of the applicant have been regularised, he is entitled to allowance aforesaid w.e.f. the date he was appointed on the post. The reliefs claimed was opposed, inter alia, on the ground that the reliefs are barred by time and on merits also the applicant is not entitled to the allowance claimed in the O.A. in view of the specific direction given by the Hon'ble Supreme Court to the effect that all monetary benefits on account of regularisation or promotion till 31.10.1991 were given up by the applicant before the Hon'ble Supreme Court. Counsel for the applicant, however, submits that the applicant had given up the monetary claims on account of ^{revision of} scales, regularisation or promotion and not the claim he was entitled to in terms of the ad-hoc appointment order (Annexure-I to the O.A.) which contains the following amongst other clauses:

Pr

"ड्यूटी वाले स्थान में कार्य कर रहे समकक्ष स्तर के अन्य सरकारी कर्मचारियों को जो महगाई और अन्य भत्ते मिल रहे हैं, वे भत्ते उनको भी दिये जायेंगे।"

4. Having heard learned counsel for the parties, I am of the view that the applicant is not entitled to stake his claim in respect of Post Graduate allowance w.e.f. 17.12.96 and Annual Allowance retrospectively w.e.f. 1.10.1986^{✓ for that} can not be allowed being barred by limitation. That apart the necessary ^{foundations to support the claim as per} ~~orders~~ have been passed on ~~the~~ conditions stipulated in the appointment order, ^{which} have not been laid down in the O.A. Concededly the applicant has been granted the allowance prayed for since 1.11.1991 in terms of the order dated 27.7.1999 passed in pursuance of the direction given by the Hon'ble Supreme Court in the civil appeal referred to above. In the circumstances, therefore, the O.A. is liable to be dismissed.

Accordingly, the O.A. is dismissed in terms of the above discussions with no order as to costs.


V.C.

Asthana/