

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 4TH DAY OF MARCH, 2002

Original Application No. 316 of 2000

CORAM:

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

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

Dr.Atul Dhawan, son of
Shri R.P.Dhawan, resident of
45(D), Shyam Nagar,
Kanpur.

... Applicant

(By Adv: Shri K.C.Sinha)

Versus

1. Union of India through
Secretary, Ministry of Defence
New Delhi.
2. Commandant, C.O.D
Kanpur.
3. Dr.Manoj Dwivedi, resident of
117/81-A O Block(LIC colony)
Sharda Nagar, Kanpur.
4. Director General Armed
Forces Medical Services
New Delhi- 110 001

... Respondents

(By Adv: Shri R.C.Joshi)

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 appointment order dated 20.1.2000 passed in favour of respondent no.3 Dr.Manoj Dwivedi. It has also been prayed that the appointment ^{be} letter/issued in favour of the applicant for the post of Civilian Medical Officer for the hospital of respondent no.2. It has also been prayed that the respondents be restrained from interfering with the functioning of the applicant and he may be considered for regular absorption.



It appears that during pendency of this OA respondent no.3 Dr.Manoj Dwivedi was also dis-engaged and an advertisement was issued on 18.12.2000 inviting fresh applications for adhoc appointment. Aggrieved by the aforesaid action, respondent no.3 filed OA No.22/01 which was disposed of finally on 5.2.2002 by the following direction:

"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 candidate duly recommended by the Union Public Service Commission, becomes available. There will be no order as to costs."

it may be noted that Dr.Manoj Dwivedi was appointed in place of applicant. His term of appointment had ended on 31.12.2001. So is the case of the applicant that the term of his appointment ended long back on 10.1.2000. In the circumstances, no direction can be issued to appoint the applicant straight-away after long lapse of time. In our opinion, the ends of justice will be served if the applicant is also permitted to participate in the selection for adhoc appointment in pursuance of the advertisement issued on 29.11.01. Shri Sinha however, submitted that applicant will not be able to apply as the last date has already expired.

We have heard counsel for the applicant and Shri Ganga Ram gupta learned counsel for the respondents on this question and in our opinion ⁱⁿ the peculiar facts and circumstances of the case a direction may be given to the

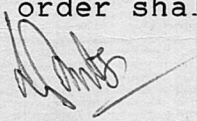



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respondents to accept the application of the applicant though filed after the last date mentioned in the advertisement dated 29.11.2001 and consider him also for adhoc appointment. This direction is being given as applicant had already served respondents for three consecutive years and he was then dis-engaged and another adhoc appointment was made which was against the settled law as pronounced by Hon'ble Supreme Court and Hon'ble High court that one adhoc arrangement cannot be replaced by another adhoc arrangement.

The OA is accordingly disposed of with the direction to the respondent no.4, Director general Armed Forces Medical Services to accept the application of the applicant filed in pursuance of the advertisement issued on 29.11.01. A copy of the same shall also be served on respondent no.2, Commandant, Central Ordnance Depot, Kanpur. ^{el u} The application shall be filed within a week which shall be considered alongwith the applications filed by others. However, this adhoc arrangement shall be continued till regularly selected candidate duly recommended by Union Public Service Commission becomes available. There will be no order as to costs.

Copy of the order shall be given within 24 hours.


MEMBER(A)


VICE CHAIRMAN

Dated: March 4th, 2002

UV/