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CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 137 of 1989

~~XXXXXX~~ with

O.A.NO. 60 of 1989

DATE OF DECISION 08-12-1995.

Shri Suresh A. Bhosle **Petitioner**

Shri Girish Patel **Advocate for the Petitioner (s)**

Versus

Union of India and others. **Respondent**

Shri Akil Kureishi and **Advocate for the Respondent (s)**
Shri K.K. Shah.

CORAM

The Hon'ble Mr. N.B. Patel : Vice Chairman

The Hon'ble Mr. K. Ramamoorthy : Member (A)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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Shri Suresh A. Bhosle,
Accountant, in the
office of the Deputy Director,
Central Government Health Scheme (DCGHS),
Shalimar Flats,
Ashram Road,
AHMEDABAD.

...Applicant.

(Advocate : Mr. Girish Patel)

1. Union of India,
(Notice to be served
through the Secretary,
Ministry of Health and
Family Welfare,
Nirman Bhavan,
New Delhi).

2. Director General of Health Service,
Government of India,
Nirman Bhavan,
New Delhi.

3. V.G.Thengadi,
U.D.C. Office of the
Deputy Director,
Central Govt. Health
Scheme (DCGHS),
Shalimar Flats,
Ashram Road,
Ahmedabad.

...Respondents.

(Advocates : Mr. Akil Kureshi and
Mr. K.K. Shah)

J U D G M E N T

O.A.NO. 137 OF 1989 with

O.A.NO. 60 OF 1989.

Dated : 08-12-1995.

Per : Hon'ble Mr. K.Ramamoorthy : Member (A)

This application relates to grant of relief
regarding seniority.

The applicant was employed under the National
Malaria Eradication Programme as an L.D.C. in 1968 and became
quasi permanent L.D.C. in 1973. However, by virtue of
integration programme undertaken in 1979. The applicant's
post was declared surplus and in this process, the applicant
got appointed thereafter in C.G.H.S. The Respondent

department has considered the applicant's appointment in C.G.H.S. as a case of fresh deployment as a result of surplusage, and such an employee therefore, lost the earlier seniority altogether. It is the contention of the applicant, on the other hand, that the applicant's appointment in C.G.H.S. should not be taken as a fresh deployment but merely as one of transfer, the office of the C.G.H.S. also being under the same Ministry and the vacancies in C.G.H.S. also having occurred at the same time. The applicant in C.G.H.S. should therefore, be given consequent benefit of retention of seniority.

The order No.40-1/79-ADMN dated 24-8-1979, of the Director, NMEP, New Delhi, authenticated the fact that the applicant was declared as surplus at RCO, NMEP, Baroda, and he may be absorbed in the post of L.D.C. under C.G.H.S. Ahmedabad. We have also gone through the scheme of the integration. It is clear that integration covered only two offices the office of the Malaria Eradication Programme and Regional Health Office. It is also clear that the integration meant certain posts becoming redundant as indicated in letter dated 22-9-1979, (Annexure-R/6). Though, C.G.H.S. is also under the same Ministry, the fact of it being separate organisation cannot also be disputed.

The only argument which lends some credence to the applicant's contention regarding his posting being one of transfer is the fact that the applicant did not go through the agency of surplus cell which would have been the normal procedure in the case of staff being declared as surplus. It is true that in a normal process of surplus, the applicant's name is sent to a surplus cell and till such names are picked up for employment elsewhere, the name of the applicant continued to be borne on the roster of the surplus cell only.

After going through the orders relating to the closure of the office of the then Malaria Eradication Programme, it is clear that with the integration scheme, the present applicant had become rendered surplus. The mere fact that the concerned department arranged for a deployment directly without the agency of surplus cell, cannot by itself make the operation any less one of surplus and re-deployment. In fact, such an effort has been taken by the department to minimise the geographical dislocation of the applicant and cannot, therefore, be faulted for such an action. Since, the legal position regarding seniority and its governance in the case of re-employment of such persons are clear, there is nothing wrong in the impugned order of the respondents whereby the applicant has not been given the benefit of the earlier service as L.D.C. for seniority. The application, therefore, fails.

No order as to costs.

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(K.Ramamurthy)
Member(A)

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(N.B.Patel)
Vice Chairman

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