

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH.

No. O.A. 1170 of 1996.

Present : Hon'ble Dr. B.C.Sarma, Member (A)

Hon'ble Mr. D. Purkayastha, Member (J)

TAPAN KUMAR KAR ... Applicant.

Vs.

1. Union of India, through the Secretary,

Department of Health and Family Planning,

New Delhi - 110 001.

2. The Additional Director, Central Govt.

Health Scheme, 8, Esplanade East(4th floor)

Calcutta - 700 069.

3. The Deputy Director, Central Govt.

Health Scheme, 8, Esplanade East(4th floor)

Calcutta - 700 069.

4. The Chief Medical Officer, C.G.H.S.,

8, Esplanade East (4th floor),

Calcutta - 700 069.

.... Respondents.

For applicant : Mr. D. Sarkar, Counsel.

For Respondents : Mr. ~~Box Mukherjee, Counsel~~ S.K.Dutta, Counsel.

Heard on : 31.12.96 :: Ordered on : 31.12.96.

O R D E R

B.C.Sarma, AM

The dispute raised in this application is about not giving appointment to the post of Dresser in the Central Govt. Health Scheme by the respondents. The applicant contends that his name was sponsored by the employment exchange pursuant to the notice issued by the respondents for giving appointment to the post of Dresser.



...Contd. P/2.

He appeared in the test and his name was also in the panel at serial No.7. But although the authorities have given appointment upto serial No.6, he was not given any appointment. At the same time, the applicant was discharging the duties of Dresser on casual basis from the year 1982 onwards with some breaks and according to the applicant, he is still working. Being aggrieved thereby, the instant application has been filed with the following two reliefs :

(a) An order ^{be issued} commanding the respondents No.4 for giving appointment of your applicant in the permanent basis according to the job done by the applicant in the previous year of 1982, 1983 and 1984 for completed 180 days in a year;

(b) An order ^{be issued} commanding the respondents Nos 2,3 and 4 as to why till date the Panel prepared by the authority has not been exhausted and the service of your applicant has not been confirmed ~~on~~ permanent basis as yet and confirmed the same.

2. When the admission hearing of the matter was taken up today, Mr.S.K.Dutta, 1d. counsel, appearing for the respondents strongly opposed the admission of the application. Mr. Dutta submitted that keeping in view the reliefs sought for in this application, this application cannot be allowed since it is time barred. However, on a query being made, Mr. Dutta submitted that the applicant has worked as causal labour under the respondents for some time at least till 1994 for doing some ~~old~~ jobs like waterman etc.

3. We have examined the matter after hearing the learned counsel for both the parties, perusing records and considering the facts and circumstances of the case. It is curious to note that although the applicant has prayed for appointment on the basis of his work done in 1982, 1983 and 1984, the instant application has been filed only on 20.9.1996 after a lapse of more than 14 years. The reason

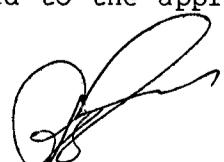


for the delay in filing the instant application is not at all understandable since it has not been explained. However, Mr. Sarkar submitted that the applicant has been functioning under the respondents till now as a casual Dresser. But when we peruse the records, there is no averment whatsoever made by the applicant to that effect. In fact, none of the annexures which has been appended to the application indicates that the applicant had ever functioned as a casual Dresser. The impression we get is that sometime the applicant has discharged the duties of casual waterman etc. and the offer of the said engagement was also given to him in express terms. Therefore, we are of the view that the reliefs prayed for by the applicant for giving a regular appointment to the post of Dresser on the basis of his work done in 1982, 1983 and 1984 cannot be granted now. Moreover, eventhough his name had appeared in the panel, which was published in 1984, the validity of the said panel ~~was~~ expired long ago and, therefore, the action of the respondents in not giving any appointment cannot be faulted. Moreover, mere empanelment of a candidate does not give him any right which can be enforced through a legal process. Alterall, it is not the contention of the applicant that a junior person in the panel has been given appointment ignoring his case. In the result, the application is liable to be dismissed.

4. For the reasons given above, we do not find any merit in this application. The application is, therefore, dismissed without passing any order as regards costs. However, considering the fact that the applicant has worked for some time as a casual labour and according to Mr. Sarkar, 1d. counsel, he is still working, we direct the applicant to submit a comprehensive representation giving details of working as casual labour yearwise, if he so like, within a period of one month from today and the respondents on receipt of the said representation, if any, shall consider the same and pass appropriate speaking order thereon as per rules within a period of two months and the result of such consideration shall be conveyed to the applicant within the same period.

Kan

(D. PURAKAYASTHA)
MEMBER(J)



(B.C. SARMA)
MEMBER (A)