

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.246/05

Wednesday this the 7th day of September 2005

C O R A M :

**HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN
HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER**

1. K.Aji Kumar,
S/o.Kunjukrishnan,
Group D (on contract), Homoeo Dispensary,
Central Govt. Health Scheme, Melathumele,
Vattiyoorkavu, Trivandrum.
Residing at Thatharikathu Veedeu,
Valayatty, Kottoor, Trivandrum.
2. C.K.Leela,
D/o.Kunjambu,
Pharmacist, Homoeo, (on contract),
Central Govt. Health Scheme, Melathumele,
Vattiyoorkavu, Trivandrum.
Residing at Leela Bhavan, Ponavila,
Ayira P.O., Parassala.
3. K.Anikuttan,
S/o.Kochappi,
Group D, (on contract), Ayurvedic Dispensary,
Central Govt. Health Scheme, Melathumele,
Vattiyoorkavu, Trivandrum.
Residing at Kunnil Vilayil Veedu,
TC 4/76, East Pattom, Trivandrum – 4.
4. K.Vijayan Nair,
S/o.Krishna Pillai,
Pharmacist, Ayurveda (on contract),
Ayurvedic Dispensary,
Central Govt, Health Scheme, Melathumele,
Vattiyoorkavu, Trivandrum.
Residing at Vijaya Nivas, Seelappara,
Aravipuram Road, Trivandrum.

...Applicants

(By Advocate Mr.M.V.Somarajan)

Versus

1. Union of India represented by the Secretary,
Ayush, Ministry of Health & Family Welfare,
Nirman Bhavan, New Delhi – 1.

2. The Director,
Central Govt. Health Scheme, New Delhi – 1.
3. The Joint Director,
Central Govt. Health Scheme,
Kesavadasapuram, Trivandrum – 4.
4. The Chief Medical Officer, in charge,
Ayurvedic Unit, Central Govt. Health Scheme,
Melathumele, Vattiyoorkavu, Trivandrum.
5. The Chief Medical Officer, in charge,
Homoeopathic Unit, Central Govt. Health Scheme,
Melathumele, Vattiyoorkavu, Trivandrum. ...Respondents

(By Advocate Mrs.Aysha Youseff,ACGSC)

This application having been heard on 7th September 2005 the Tribunal on the same day delivered the following :

ORDER

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

The applicants at serial no.1 and 3 are appointed on contract basis as Group D employees and applicants at serial no.2 and 4, who are retired from State Govt. service, are appointed on contract basis as pharmacist by order at Annexure A-1. It is averred that they were selected after personal interview and subjected to other formalities like medical examination etc. the appointment orders were issued on contractual basis and their engagement has been made for 90 days at a stretch with breaks. The applicants are aggrieved by Annexure A-6 memo issued by the respondents contemplating fresh appointment of pharmacists and Group D staff on daily wages with immediate effect. It is submitted that the applicants had not been given any notice nor their appointments terminated and it is not known what has necessitated the 3rd respondent to go in for a fresh recruitment on daily wages.

2. Counsel for the respondents has filed a statement on instructions furnished by the 3rd respondent that the rules do not permit appointment on contract basis and the appointments were made based on the demand from CGHS beneficiaries and the Chief Medical Officer of the units as a temporary measure and that does not give any right to the applicants to continue. Though the respondents were directed to clarify whether they are taking any action for termination of appointments on contract basis they have not furnished a reply in this regard so far.

3. The contention of the respondents that there are no rules permitting contract appointment at this stage is not acceptable as they have themselves issued advertisement in Annexure A-1 inviting application on contract basis for a maximum period of two years or till a regular candidate is appointed and the appointment of the applicants was done in pursuance of this notification. Now they cannot contend that the action was not in accordance with rules. The very fact that they have again notified the post for appointment on daily wages basis is sufficient proof of the fact that there is need for such posts on a continuing basis. It is therefore to be noted that the respondents are bound by the contractual appointment already made and they cannot replace these candidates by outsiders or freshers. They can, of course, terminate the contract in accordance with the condition at the time of appointment.

4. In this view of things, we consider that a direction to respondents restraining them from recruiting any outsiders or freshers during the currency of the contract of the applicants would meet the ends of justice.

Im

.4.

We, accordingly, do so. The O.A is disposed of at the admission stage.

No order as to costs.

(Dated the 7th day of September 2005)


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

asp