

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 279/92
O.A. 252/92

Friday, the seventh day of January, 1994

MR. N. DHARMADAN MEMBER (JUDICIAL)
MR. S. KASIPANDIAN MEMBER (ADMINISTRATIVE)

Dr. Hussain Ouge s/o late Ali H.R.
Beduathiri village, P.O. Minicoy
U.T. of Lakshadweep, Agatti

By Advocate Mr. D. Sreekumar

Applicant in O.A.
279/92

Dr. A.A. Mohammed s/o Ibrahim
Alsodi Village P.O. Minicoy,
U.T. of Lakshadweep, Minicoy
By Advocate Mr. K. Ramakumar
vs.

Applicant in O.A.
252/92

1. Union of India represented by the Secretary, Ministry of Health and Family Welfare, New Delhi
2. The Administrator, U.T. of Lakshadweep, Kavaratti
3. The Director of Animal Husbandry, U.T. of Lakshadweep, Kavaratti
4. Union of India represented by the Secretary to Government, Ministry of Agriculture, New Delhi
5. Union of India represented by Secretary, Department of Home Affairs Respondents in the two cases

By Advocate Mr. M.V.S. Namoothiri

ORDER

N. DHARMADAN

The only question that arises for consideration is whether the applicants who were appointed as Assistant Surgeon in the L & D Island can continue on adhoc basis indefinitely.

2. The applicant in O.A. 252/92 has jointly filed the earlier O.A.K. 413/88 which was disposed of along with O.A.K. 414/88 by Annexure A-IV judgment with specific direction to the following effect:

"We will however, direct the respondents to allow the applicants to continue in service till the candidates selected by the UPSC are available to replace them. Both the petitions are disposed of accordingly without any order to costs."

3. Pursuant to that direction, the impugned order Annexure A-VI was passed indicating that they are not entitled to continue in the post after the expiry of their term of appointment.

4. The learned counsel for applicant relied on some of the decisions of the Supreme Court and submitted that the Supreme Court decided in the case of Assistant Surgeons that they can continue till regularly selected UPSC candidates join.

5. However, in the earlier judgment, it was made clear that the applicants are entitled to continue in the present post till the regularly selected officers are available to replace them. The respondents have no case that regularly selected candidates through UPSC are available to replace the applicants. Even though the UPSC selection was held two years back, they have not clearly stated in the reply whether the duly selected persons are available for replacing the applicants. In this circumstances, the impugned orders are not sustainable. We quash the same. We reiterate the earlier direction in O.A.K. 413/88 & OAK 414/88 and allow the applications quashing the impugned orders in both the cases.

6. The applications are allowed.

7. There shall be no order as to costs.

(S. KASIPANDIAN)
MEMBER (ADMINISTRATIVE)

kmm

(N. DHARMADAN)
MEMBER (JUDICIAL)