

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH  
LUCKNOW

O.A. No. 343/1990

Dr. Rajiv Kumar Saxena

Applicant

versus

Union of India & others

Respondents.

Shri D.C. Saxena  
Shri K.C. Sinha

Counsel for Applicant.  
Counsel for Respondents.

Coram:

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon. Mr. K. Obayya, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

By means of this application, the applicant has prayed that the respondents be directed to include the name of the applicant in the panel declared on 15.9.1989 and they be further commanded to give the applicant appointment as Medical Officer after assigning his due seniority.

2. The applicant who is a Medical Graduate, also passed N.D.A. Examination in the year 1987, his name was sponsored through the Employment Exchange in Post and Telegraph Department and he was selected for the post of Junior Medical Officer on 8.4.85, on which post he worked w.e.f. 3.6.85 to 12.6.85. The applicant was required vide letter dated 11.7.85 to join the post of Junior Medical Officer at P&T Dispensary/<sup>Mahanagar</sup> on adhoc and temporary basis but he was not given the job as no vacancy did exist there and as such he was asked to work in P&T

Dispensary Hazratganj w.e.f. 22.12.85 in leave vacancy of Dr. Khan and continued there upto 14.1.86. The applicant has been working as such in various dispensaries i.e. in January, 86 for 14 days, May, 86-18 days, June, 86-10 days, July 86- 9 days. In the month of August , 86 he was required to serve in P&T Dispensary I, Lucknow and there he joined in the same capacity and upto March, 89 he continued there except in the months of November and December, 1988. The applicant states that his appointment has always been treated to be as adhoc and he was asked on 27.3.81 to work on leave vacancy of Dr. Khan again and later on was intimated that Dr. Khan had cancelled his leave and thereafter the appointment was cancelled. He worked on certain other posts also. On the basis of the judgment of the G.A.T a circular dated 2.11.88 was issued by the Govt. of India (Ministry of Health and Family welfare) and in pursuance thereof Govt. of India issued circular dated 19.1.89 wherein it has been provided that the doctors working on adhoc basis should be given the revised pay scale w.e.f. 1.1.1986 and they should be taken on regular strength and other benefits were also extended. The applicant states that the juniors to the applicant like Dr. (Smt) Sushma Gupta and Dr. K.K. Sharma have been given posting and the applicant has been ignored. The case of the applicant was forwarded to the Director Medical (Dak Bhawan) New Delhi through Assistant Post Master General but even then no action was taken.

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3. The respondents have stated that the applicant worked on a short term contract on short term vacancies and was not working against any regular vacancy. The seniority list of the adhoc and short term Medical officers was maintained and the question of any senior and junior of short term Medical Officers does not arise and Dr. Sood, a regular medical officer was relieved on 27.2.1990 and unless ~~unless~~ the ban which was imposed w.e.f. 19.1.89, was lifted the vacancy caused by Dr. Sood cannot be filled and there occurred no vacancy. The Principal Bench of the C.A.T. in the case of Dr. Sangeeta Narang and others the reference to which also finds in the departmental circular, directed the respondents to report the cases to U.P.S.C. who are likely to continue for more than one year as provided in proviso (iii) to clause (b) of Regulation 4 of the U.P.S.C. (Exemption from the Constitution) Regulation, 1958 dated 1.9.58 for consultation and upon consultation with the U.P.S.C. they shall be continued in service in the light of the advice of the U.P.S.C. till regular appointments are made to these posts. In the S.L.P. which was filed in the Supreme Court against one such judgment it was decided that all the Medical Officers appointed on monthly (contract) wage/basis would be entitled to the same pay scale and other benefits and service conditions as are admissible to the Medical Officers appointed on regular basis in the pay scale of Rs 700-1300 and there being no break in

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service they shall be deemed to have continued in service ever since the day of their first appointment and the one day break will be deemed as artificial break. The plea that these officers were appointed on regular basis was rejected by the Supreme Court also.

4. The services of the applicant came to an end because of the appointment on monthly basis and stopped with immediate effect/<sup>communicated</sup> vide letter dated 19.1.89 and Ministry also directed that the members appointed on monthly basis be taken on strength of regular posts and certain benefits may be given and it appears that the case of the applicant was not considered, though the cases of many others were considered and their cases for regularisation were considered, and the services of those terminated, in pursuance of the judgment of the Supreme Court, were taken back and the applicant's case was not considered in that light, though the applicant is also entitled to the benefits which were given to the similarly placed persons.

5. Accordingly, we would like to give one more opportunity to the respondents who will consider the case of the applicant again and will give the benefit to the applicant also and in case any junior to the applicant has been given appointment, the case of the applicant will be considered and the applicant will also be given appointment and directions which have been given in the Departmental circulars in the pursuance of the Judgement of the Tribunal, shall be strictly

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adhered to and let a decision be given within a  
period of three months from the date of receipt of  
a copy of this judgment. No order as to costs.

  
Adm. Member.

  
Vice Chairman.

Shakeel/

Lucknow: Dated 19/10/92