

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

LUCKNOW CIRCUIT BENCH

Registration T.A. No.1153 of 1987 (L)

(W.P. No.2420 of 1983)

Suneet Kumar Applicant

Versus

Union of India & Others..... Respondents

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

Hon. Mr. A.B. Gorthi, Member (A)

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

The applicant was working in K.G's Medical College, Lucknow. In pursuance of the advertisement for the recruitment of Para Medical Staff required for P&T Dispensaries in U.P. designated as Medical Store Keeper, the applicant applied for the same through his Department as he was fulfilling all the requisite qualifications. The applicant alongwith others was also called for interview on 11.11.80. He appeared in the interview. Thereafter he was also medically examined. He submitted the attested copies of his testimonials and marksheets from High School to M.A. on 29.6.81. Thereafter, he ~~had~~ made enquiries about the fate of his appointment from the Opposite Parties 2 and 3. He was informed that the matter is under process and he shall be communicated about the appointment in due course. Again the applicant submitted a letter dated 10.6.82 to opposite party No.2 and in reply to that letter he was informed vide letter dated 19.7.82 that he could not be located by the police at the address given by him

in the attestation form and as such police verification could not be done. The applicant replied that his house is situated within the jurisdiction of P.S. Wazirganj, Lucknow. Thereafter the appointment letter was issued and the applicant was directed to report for duty to the Medical Officer-in-Charge P & T Dispensary III, Mahanagar, Lucknow within 15 days vide letter dated 5.10.82. The letter clearly directed that the applicant is hereby offered provisional appointment as Medical Store Keeper. He should clearly understand that his appointment is purely temporary and will not confer upon him any right for permanent absorption in the Department. His permanent absorption will depend upon the availability of the vacancy and also of satisfactory record of service. Thereafter the applicant was relieved from the K.G's Medical College, Lucknow and was instructed to fill six copies of the charge report and directed to submit four copies to the Medical Officer-in-Charge and keep two copies with him. It was accordingly done but the Medical Officer-in-Charge declined to accept the charge report saying that he has been instructed verbally by the Divisional Engineer, Telecommunication, respondent No.5, ^{not} to allow him to join his duties without obtaining his permission. The applicant met the General Manager and submitted an application dated 16.10.82 mentioning that Medical Officer-in-Charge declined to accept the charge report and permitted him to join his duties as per appointment. He also submitted a copy of the charge report on 16.10.82. The General Manager assured that he will look into the matter. Thereafter, he met ~~to~~ the

General Manager number of times but to no effect. He was then compelled to give notice on 22.3.83 but no reply to the same was given by the respondents although out of six, five candidates were selected alongwith him and the applicant was made to leave the job from the K.G's Medical College, Lucknow but he was not given the job.

2. In the Counter affidavit it has been stated that a some short of explanation or lame excuse on the part of the Govt. has also been made. At the same time, it has been pleaded that as a result of the policy of the Govt. there was Divisionalization and the P&T Dispensaries including Store Keepers were divisionalised and ceased to be a circle cadre staff, as a result of which Para Medical Staff came under the administrative control of the D.E.T. Lucknow instead of G.M.T. U.P. Circle Lucknow. Undoubtedly, he was offered appointment but in view of the fact that due to the divisionalization of the Para Medical Staff, the D.E.T. Lucknow having become the controlling and appointing authority was duty bound to satisfy himself about the correctness of the formalities. After completion of formalities, the applicant was directed by the D.E.T. Lucknow vide letter dated 10.5.83 on his two known addresses to report for duty in the office of the P&T Dispensary III, Mahanagar, Lucknow. The applicant did not join. The police verification report was delayed because he could not give his complete address and that is why he could not be appointed alongwith other five candidates. Consequent upon the formation of a separate Department of Posts it was decided that the P&T Dispensaries located in U.P. Circle may be transferred to the charge of the Postal Wing, accordingly, the P&T Dispensaries located at Lucknow were transferred to the

(Signature)

charge of Director Postal Services, Lucknow w.e.f.

7.6.85, vide letter dated 12.6.85. Under the changed circumstances, the respondents are not having any control over the P&T located in the U.P. Circle Lucknow but due to the lapse of the Govt. the applicant should not be made to suffer and he should not be penalised. In the case of State of Maharashtra Vs. J.A. Karandikar 1989 SCC (Supp) 393 it has been held that the employee should not be made to suffer for the lapse of the Govt. The applicant was given appointment in the year 1982 and the bifurcation of the Department took place in the year 1985. It is only an internal matter of the Department. The respondents are bound to give appointment to the applicant. The applicant should not be subjected to suffer for the lapse of the Department. With these observations, the application is allowed ^{and} the respondents are directed to give appointment to the applicant from the date on which five other candidates were selected alongwith him. But the applicant shall not get any salary for the above period. Let the compliance be done within one month from the date of communication of this order.

transcript
Member (A)

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Vice Chairman

Dated the 2nd July, 1991.

RKM