

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

O.A.NO.850/99

Monday, this the 3rd day of March, 2003

Hon'ble Shri Govindan S. Tampi, Member (A)
Hon'ble Shri K.V. Sachidanandan, Member (J)

Dr. S.J. Pol, MBBS
Asstt. Surgeon, Grade I
Medical Inspection Room
Naval Armament Depot
Trombay, Mumbai - 40 088
residing at Anurag Co-op Hsg.
Society, Model Town, Mumbai -53

...Applicant

(By Advocate: Shri A.T. Bhatkar)

Versus

1. Union of India through
the Secretary to the Govt. of India,
Ministry of Defence, Raksha Bhavan,
New Delhi
2. The Chief of Naval Staff
Naval Headquarters, New Delhi
3. The Flag Officer
Commanding-in-Chief
Western Naval Command Headquarters
Shahid Bhagat Singh Road
Bombay 40 023
4. The Naval Armament Supply Officer
Naval Armament Depot
Trombay, Mumbai 400 088
5. The Chairman
Union Public Service Commission
Dholpur House,
Sharjah Road, New Delhi
6. The Director General of
Armed Forces Medical Service,
Ministry of Defence, New Delhi

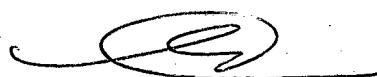
...Respondents

(By Advocate: Shri Vinay S. Masurkar)

O R D E R (ORAL)

Shri K.V. Sachidanandan, M (J):-

1. Through this application, the applicant is seeking order/direction to the respondents to implement the judgment/order passed by this Tribunal in OA-617/89 on 23.3.1994. In that case, the Tribunal had passed the following orders:



"(a) that the services of the applicant should not be terminated merely on the ground that they have been working as ad hoc basis, except upon the regular appointment being made through the UPSC or if any disciplinary action is to be taken as a result of the disciplinary proceedings; and

(b) that the respondents should take early steps for regularising the appointments of the Applicant's by making a reference to the Union Public Service Commission in accordance with the recruitment rules; and

(c) the Respondents to initiate such action as early as possible."

2. The applicant, who is a MBBS degree holder from the Bombay University, was sponsored to and interviewed and selected by the Flag Officer Commanding-in-Chief, Western Naval Command and appointed as Assistant Surgeon, Grade I at Naval Armament Depot, Trombay, Mumbai w.e.f. 2.7.1985 on ad hoc basis vide an order dated 2.7.1985. The applicant states that since then he has been serving as Assistant Surgeon Grade I continuously without any break in service for the last 14 years. As per applicant, he has been working sincerely, efficiently and honestly and his work has been appreciated by superiors, who have orally informed him that his ACRs are all along very good. According to the applicant, he has not received single memo or letter of displeasure in his entire service career. In 1989, the applicant and two other Assistant Surgeons, Grade I, were issued notices of termination from the respondents vide Order No. CS/0401/2 dated 28.8.1989, which had been challenged by him before this Tribunal by filing OA-617/89. The Tribunal on 23.3.1994 gave the following directions to the respondents:

"The only order that we can make in this OA and OA No.617/89 where the facts are identical would be that the services of the applicant shall not be terminated merely on the ground that they have been working on ad hoc basis, except upon the regular appointment being made through the UPSC or if any disciplinary action is to be



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taken as a result of the disciplinary proceedings. The respondents shall take early steps for regularising the appointments of the applicants by making a reference to the Union Public Service Commission in accordance with the recruitment rules. We would direct the respondents to initiate such action as early as possible. With these directions the OAs are disposed of. No order as to costs."

3. The applicant states that he is waiting for the implementation of the orders passed by this Tribunal, as the respondents have done nothing though five years have gone by. He also states that he has been holding the post of Assistant Surgeon Grade I w.e.f. 2.7.1985 on ad hoc basis, therefore, no harm, damage or prejudice is going to cause to any of the respondents if he is regularised with effect from the date of his appointment. Learned counsel appearing on behalf of the applicant submits that similarly situated applicant, namely, Dr. (Smt.) S.P. Shere had filed OA-1093/99 which had been disposed of by this Tribunal on 8.12.2000, wherein the following orders have been passed:

"6. We make it clear that the services of the applicant shall not be dispensed with only because she is working on adhoc basis.

7. The respondents shall take all steps to regularise the services of the applicant as expeditiously as possible. the services of the applicant shall be regularised as per rules then in force."

4. In pursuance of the directions given above by the Tribunal on 8.12.2000, the respondents have passed order dated 7.2.2003 conveying the sanction of the President to regularise the services of Dr. (Smt.) S.P. Shere w.e.f. 3.10.2002 on terms and conditions as are applicable to the regularly recruited Civilian Medical Officers. Learned counsel appearing for the applicant states that he will be satisfied if the similar directions be given to the respondents as has been given in the case of Dr.

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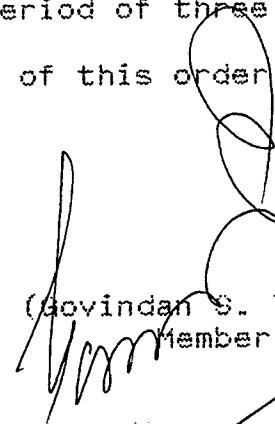
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(Smt.) S.P. Shere (OA-1093/99), as both the applicant as well as Dr. (Smt.) S.P. Shere are similarly situated persons.

5. Considering the submissions made by the learned counsel for the applicant, we feel it necessary that the same relief ~~can~~ ^{shall} be granted to the present applicant as has been ordered in OA-1093/99. The OA, therefore, succeeds and allowed. We direct the respondents to refer the matter to Union Public Service Commission (respondent No.5) and take appropriate action expeditiously as possible and in any event within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.


(K.V. Sachidanandan)
Member (J)

/sunil/


(Govindan S. Tampi)
Member (A)