

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH LUCKNOW

ANNEXURE

INDEX SHEET

CAUSE TITLE

04343/90

OF

NAME OF THE PARTIES

Mr. Raju V. K. Saxena

Applicant

Versus

D. O. F. Q. 4

Respondent

Part A, B & C

Sl. No.	Description of documents	Page
1	Direct Ltr	A1 to A2
2	DAT order sheets	A3 to A57
3	Original judgment not found in file / Both copy sent. Entry made jud. dt 25/10/92	A6 to A10
4	Copy of Petition dt 16/4/90, leave ✓	A11 to A30
5	Annexure	A31 to A49
6	Counted Attachment	A50 to A76
7	N/A	A77
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CERTIFICATE

Certified that no further action is required to taken and that the case is fit for consignment to the record room (decided) Part B/C Weeded out already / Destroyed

Dated 29-5-13

Counter Signed

Section Officer / In charge

Signature of the
Dealing Assistant

23.4.90 D

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No.

343 of 1990

Appointment in
Senior Scale
not to be made

APPLICANT (s)

Dr Rajiv Kumar Saxena

RESPONDENT(s)

U.O. 1 & etc

(PRT)

Particulars to be examined

Endorsement as to result of Examination

1. Is the appeal competent ?
2. (a) Is the application in the prescribed form ?
(b) Is the application in paper book form ?
(c) Have ~~six~~ complete sets of the application been filed ?
3. (a) Is the appeal in time ?
(b) If not, by how many days it is beyond time ?
(c) Has sufficient case for not making the application in time, been filed ?
4. Has the document of authorisation, Vakalat-nama been filed ?
5. Is the application accompanied by B. D. /Postal-Order for Rs. 50/-
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ?

Yes
Yes
Yes
Yes (Seven sets)

Yes

—

—

Yes

Yes, DD 550229 dr B.S.T.
3

Yes

Yes

Yes

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

O.A. No. 343 of 1980

Vs

Sl.No. of Order	Date of order	ORDERS WITH SIGNATURES	Office notes as to action (if any) taken on order
-----------------	---------------	------------------------	---

OR

In compliance with ② 28.5.90 Hon. K. Agrawal Jm
Hon. K. Obeyya Jm

30-4-90, notices meant for the Respondents ~~dated~~ ~~sent~~ handed over to Sri K. C. Sinha. No reply received the section so far submitted.

On the request of Counsel for the applicant Case is adj. to 25.6.90 for orders.

[Signature]
Am

[Signature]
J.M.

Sri K
21-5-90

28.5.90

25.6.1990

Hon. K.J. Raman, A.M.
Hon. D.K. Agrawal, J.M.

Sri D.C. Saxena, learned counsel for the applicant, has been heard in the matter of interim relief.

Sri K.C. Sinha, learned counsel for the respondents, states that he will require four weeks further time for submitting a reply. No reply has been filed so far even in respect of the interim prayer, contained in the application.

Considering all the circumstances, we feel that it would be appropriate to direct the respondents to keep one ^{vacant} ad hoc post of Medical Officer of the kind covered by the office order dated 15.9.89 Annexure-I, so

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD/C.B. LUCKNOW

O.A. No. 343 OF 19 90

vs.

Sl.No.	Date	Office Report	Orders
--------	------	---------------	--------

②

29.11.1990
Hon. D.K. Agrawal, J.M.
Hon. K. Obayya, A.M.

None appears for the applicant.
Km. S. Srivastava, brie holder or Sri
K.C. Sinha for the respondents, is present.
List this case for orders on 3.1.91.

J.M.

pg.

⑦

3/1/91

Hon. Mr. K. Obayya, J.M.
Hon. Mr. K. Sinha, J.M.

Hon. Mr. K. Sinha, J.M.
Hon. Mr. K. Obayya, J.M.

Hon. Mr. K. Sinha, J.M.
Hon. Mr. K. Obayya, J.M.

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Hon. Mr. K. Obayya, J.M.

Hon. Mr. K. Sinha, J.M.
Hon. Mr. K. Obayya, J.M.

Hon. Mr. K. Sinha, J.M.
Hon. Mr. K. Obayya, J.M.

OR 5/3/91

No Remander Affidavit

in compliance of Hon'ble
Bench's order dt-
03.01.91 has been submitted
received in the undersigned
Section

CHANDHYAM

5/3

Recd
10.1.91

Am.

Am.

2/6

18-5-92 No signing of D.M.
after 16-7-92

16-7-92
Hon Mr Justice V.C. Srinivasan, V.C.
Hon Mr K. S. Bhat, P.M.

list this case along with
O.A No-61/89 on the date fixed
by O.A 61/89.

2
R
A.M.

VC

O.R.
C.A/R A have been
exchanged.

S.F.O.

2
30/7/92

279

RECEIVED
CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
LUCKNOW

O.A. No. 343/1990

Dr. Rajiv Kumar Saxena

Applicant

versus

Union of India & others

✓ Shri D.C. Saxena
Shri K.C. Sinha

Coram

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Odayya, 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 considering his seniority.

2. The applicant who is a Medical Graduate, also passed N.D.A. Examination in the year 1987, his post 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/^{Maharajgarh} 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. 22.12.55 in leave vacancy of Dr. Khan and continued there upto 14.1.56. The applicant has been working as such in various dispensaries i.e. in January, 56 for 14 days, May, 56-10 days, June, 56 10 days, July 56- 9 days. In the month of August, 56 he was sent to work in the dispensary at Lucknow and there he joined in the same capacity and upto March, 59 he continued there except in the months of November and December, 1958. The applicant states that his appointment has always been treated to be as adhoc and he was asked on 27.3.51 to work on leave vacancy of Dr. Khan again and later on it was intimated that Dr. Khan has cancelled his leave and thereafter the appointment was cancelled. He worked on certain other posts also. On the basis of the judgment of the C.A.F. a circular dated 2.11.58 was issued by the Govt. of India (Ministry of Health and Family Welfare) and in pursuance thereof Govt. of India issued circular dated 19.1.59 wherein it has been provided that the doctors working on adhoc basis should be given the revised pay scale w.e.f. 1.1.1956 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 (Lax Bhawan) New Delhi through Assistant Post Master General but even then no action was taken.

4/80

-3-

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 seniority of short term Medical Officers does not arise and Dr. Soad, 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 created by Dr. Soad cannot be filled and there occurred no vacancy. The Principal Bench of the C.A.F. in the case of Dr. Sandhu Mareng 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. (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 service 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 is no break in

4/10

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services 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 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/vide letter dated 19.1.69 and communicated. 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 judgment of the Tribunal, shall be strictly

5-

ordered 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.

Sd-

Adm. Y. M. V.

Sd-

for 2/10/92

Sd-1/

Lucknow dated 19(10)92

Certified Copy

19/10/92

Judicial Officer

C. A. T.

LUCKNOW

TA 38/a2

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

*** **

INDEX

IN

COMPILATION NO. I

IN

O.A. NO. 343 OF 1990.

Dr. Rajiv Kumar Saxena Vs. Union of India

Sl.No.	Particulars	Pages
1.	Application U/s 19 of the Act	1 - 15
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3.	Vakalatnama	19.

Dated:

Through Sri D.C. Saxena
Advocate.

(1)

Central Administrative Tribunal
Additional Bench At Allahabad
Date of Filing 16-4-90

Date of Receipt
By Post

OR

By Registrar

16/4/90

BEFORE THE CENTRAL ADMINISTRATIVE, ~~ALLAHABAD~~
TRIBUNAL, ALLAHABAD.

O.A. No. 343 of 1990.

Application Under Section 19 of the Central
Administrative Tribunal Act, 1985.

ON BEHALF OF

Dr. Rajiv Kumar Saxena, Son of Shri Manmohan Swaroop
Saxena, Resident of 39 Cantonment Road, Lucknow.

.....Applicant.

Versus

- ✓ 1. Union of India through Secretary Ministry of
Communications Government of India (Department
of Posts), 'Dak Bhawan', New Delhi.
- ✓ 2. Secretary Ministry of Health and Family Welfare
Government of India, Nirman Bhawan New Delhi.
3. Director (Medical), Dak Bhawan, New Delhi.
4. Chief Post Master General U.P. Circle (P.M.G.
Compound), Lucknow.
5. Post Master General, (H.P.O. Campus) Allahabad.

.....Respondents.

Details of the Application.

1. Particular of the order against which the
application is made.

X. Rajiv

Central Administrative Tribunal
Additional Bench At Allahabad
Date of Filing 16-4-90

OR
Date of Receipt
By Post

Dy Registrar

16/4/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

O.A. No. 343 of 1990.

Application Under Section 19 of the Central Administrative Tribunal Act, 1985.

ON BEHALF OF

Dr. Rajiv Kumar Saxena, Son of Shri Manmohan Swaroop Saxena, Resident of 39 Cantonment Road, Lucknow.

.....Applicant.

Versus

- ✓ 1. Union of India through Secretary Ministry of Communications Government of India (Department of Posts), 'Dak Bhawan', New Delhi.
- ✓ 2. Secretary Ministry of Health and Family Welfare Government of India, Nirman Bhawan New Delhi.
3. Director (Medical), Dak Bhawan, New Delhi.
4. Chief Post Master General U.P. Circle (P.M.G. Compound), Lucknow.
5. Post Master General, (H.P.O. Campus) Allahabad.

.....Respondents.

Details of the Application.

1. Particular of the order against which the application is made.

Filed To day

Noted for

23.4.1990

23rd April 1990

Dehra

16/4/90

XI Regime

The applicants grievance is that his name has been arbitrarily omitted in the panel of Medical Officers constituted vide order dated 15.9.89 issued by the Ministry of communication respondent No. 2 and as circulate-d by respondent No. 3 and that the applicant has not been given posting orders. Since March 1989.

2. Jurisdiction of the Tribunal:

The applicant declares that the subject matter of the order/direction against which the applicants wants redressal is within the jurisdiction of the Tribunal.

3. Limitation:

The applicant further declares that the application is within the limitation prescribed in section of 21 of the Administrative Tribunals Act 1985.

4. Facts of the Case:

Facts of the case are

41. That the applicant passed his M.B.B.S.,

Examination in 1981 from Jawahar Lal Nehru Medical College of Aligarh Muslim University and thereafter completed internship for a period of one year.

42. That the applicant joined the post graduate

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course in 1984 in King Georges' Medical College of Lucknow University and subsequently passed the M.D. examination in 1987.

4-3. That the applicant got his name enrolled with the Employment Exchange Lucknow.

4-4. That the applicant's name was sponsored through the Executive Employment Officer, Lucknow for being considered for a panel of Junior Medical Officer in Post and Telegraph department.

4-5. That the applicant on 2.4.85 was selected for the post of Junior Medical Officer vide memo No.ADM(S)/19-2/85/5 Dt. at Lucknow 226001 8.4.85 (A photostat copy of the aforesaid memo is annexed as Annexure 'II' to this application (Compilation No. 27).

4-6. That the applicant worked as Junior Medical Officer in P & T Dispensary III, Lucknow for the period 3.6.85 to 12.6.85.

4-7. That the Director, Postal Services Lucknow region, Lucknow vide letter No. RDL/Disp/r-1/2 at Lucknow dated 11.7.85 directed the applicant to join the post of junior medical Officer at P & T

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Dispensary III, Mahanagar on Adhoc and temporary basis.

A photostat copy of aforesaid letter is annexured herewith as Annexure III to this application (Compilation No.2) .

4.8. That in pursuance to aforesaid letter dated 11.7.85 the applicant reported for duty at P&T dispensary III, Mahanagar Lucknow but he was not given the job, as no vacancy did exist as informed by the Chief Medical Officer, who was also the incharge of the dispensary.

4.9. That the applicant was however asked to work in P&T dispensary I, Hazratganj, Lucknow with effect from 22.12.85 in leave vacancy of Dr. Khan. The applicant served as such till 14.1.86 when Dr. Khan joined back after leave.

4.10. That thereafter the applicant served in various dispensaries of P&T which are now under the Administrative Control of respondent No.5 between the period January 1986 to August 1986 the details being as follows :

1. January 86	14 days	Disp. I, Lucknow.
2. May 86	18 days	Disp. II, Lucknow.
3. June 86	10 days	Disp. III, Lucknow.
4. July 86	9 days	Disp. II, Lucknow.

X *Rajim*

-5-

4.11. That in the first week of August 86 the applicant was required to serve as Medical Officer in P&T Dispensary I, Lucknow and he joined there as such and he continued to serve in the same capacity in various dispensaries upto March '89, except for months of November and December 88 for which no vacancy was alleged although the applicant's information is that vacancy in fact did exist.

4.12. That it is relevant to mention that the appointment of the applicant has always been treated as appointment on Adhoc basis as would be evident from transfer order dated 22.8.86 Photostat copy of the aforesaid memo is annexed as Annexure "IV" to this application (Compilation No.2).

4.13. That vide Memo No. STA/567-PK/6 dated Lucknow 20.3.89 the office of the Chief Post Master General U.P.Circle issued direction to the effect that with effect from 27.3.89 the applicant (who was serving at Mahanagar Dispensary) will work in leave vacancy of Dr. K.A.Khan. A Photostat copy of aforesaid Memo dated 20.3.89 is Annexed as Annexure "V" to this application (Compilation No.2).

X R Singh

-6-

4.14. That in pursuance with the aforesaid memo dated 20.8.89³ the applicant reported for duty at Rajendranagar P&T dispensary Lucknow (where Dr. K.A.Khan, at the relevant time was serving) on 27.3.89.

4.15. That on 27.3.89 the applicant was informed that Dr. K.A.Khan is not proceeding on leave and as such the applicant was not allowed to serve. It is pertinent to mention that vide letter dated 3.4.89 the applicant made a representation in this respect to Chief Post Master general respondent No.4. A true copy of the aforesaid representation is filed herewith as Annexure No. 'VI' to this application (Compilation No.2).

4.16. That it is pertinent to mention that the applicant was required to work in the leave vacancy of Dr. Lalita Prasad vide memo dated STA/193-PL/6 dated January 89 issued from the office of the Post Master General, Lucknow. In the aforesaid memo it has been clearly mentioned that the applicant is the senior most medical officer of the aforesaid panel. A photostat copy of the aforesaid memo is filed herewith as Annexure 'VII' to this application (Compilation No.2).

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X Rajin

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4.17. That since March '89 the applicant has been anxiously waiting for his posting as Medical Officer and for which the applicant from time to time has been meeting the concerned authorities but till now he has not been given any posting hence this petition.

4.18. That it is necessary to mention that Dr.(Smt) Sushma Gupta and Dr. K.K. Sharma had also been on the similar panel of Medical Officers and both of them are junior to the applicant but the aforesaid doctors have been given posting and the applicant has been ignored although the vacancies exist and are lying vacant.

4.19. That several Medical Officers filed petitions under Section 19 of Administrative Tribunal Act Challenging the policy of keeping doctors on daily wages and not allowing them benefits, which are available to doctors working on regular basis.

4.20. That the said petitions were allowed by the Principal bench, Central Administrative Tribunal, New Delhi and Special leave petitions filed by the Union against the aforesaid Judgment of CAT have been dismissed by the Hon'ble Supreme Court with the result that the judgment of Central

Administrative tribunal has attained finality.

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X Rajind

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4.21. That consequently Government of India (Ministry of Health and Family Welfare) issued a circular letter dated 2.11.88 wherein it has been laid down that such medical officers be continued till regular appointments are made to these posts and other benefits available to regularly appointed Medical Officers, have also been extended to the medical officers serving on adhoc basis. Photostat copy of the aforesaid letter dated 2.11.88 is enclosed herewith and marked as Annexure 'VIII' to this application (Compilation No.2).

4.22. That in order to give effect to circular dated 2.11.88 the Government of India (Ministry of Health and family welfare) issued another circular dated 19.1.1989 wherein it has been provided that 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. A photostat copy of the aforesaid circular dated 19.1.89 is being filed and marked as Annexure 'IX' to this application (Compilation No.2).

4.23. That in utter disregard to the directions laid down in aforesaid circular letter the applicant has not been given benefits and he has not been given

M/ X Rajin

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any posting after March 19, 1989.

4.24. That the Director (Medical), Department of Posts New Delhi vide communication dated 15th September 1989 have issued a list of Adhoc Medical Officers (so far serving on adhoc basis) who have been taken on the permanent strength and given revised pay scale. A photostat copy of the aforesaid letter dated 15th September '89 is filed herewith as Annexure I to this application (Compilation No. I).

4.25. That a bare perusal of the said letter dated 15th September 1989 (Annexure I to Compilation No. I) will show that the doctors shown at serial numbers 2, 3, 4, 6, 7, 8, 11, 13, 15, 16, 17, 18, 19, 20 and 21 are admittedly junior to the petitioner but they have been kept on regular strength and the petitioner who is much senior has been arbitrarily deprived of his legitimate claim.

4.26. That from the above facts and circumstances stating in the preceding paragraphs, it is abundantly clear that the applicant's name has been arbitrarily ignored from the panel of doctors as would be evident from the perusal of Annexure 'I' to this application).

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X R Singh

-10-

4.27. That as explained above, all the doctors show in the list (Annexure I) are similarly situated and most of them are junior to the applicant, but, it is very surprising that the applicant's name has been ignored.

4.28. That it is pertinent to mention that one doctor Dr. Kapil Sood, who was a duly selected medical Officer, has recently resigned and as such a post has ^{fallen} ~~taken~~ vacant.

4.29. That it is further relevant to mention that the applicant's wife also belong to medical profession and is serving in Dufferin Hospital Lucknow.

4.30. That the applicant also submitted further representation dated 15.11.89 to respondent No.3. A photostat copy of aforesaid representation dated 15.11.89 is filed herewith as Annexure 'X' to this application (Compilation No.2).

4.31. That the applicant also gave a reminder dated 27.12.89 to the respondent No.3. A Photostat copy of the said reminder is filed herewith as Annexure 'XI' to this application(Compilation No.2).

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-11-

4.32. That through Chief Post Master general (Respondent No.4) the applicant submitted a reminder dated 9.1.90 to Director Medical Respondent No.3. A Photostat copy of aforesaid letter is filed herewith as Annexure 'XII' to this application (Compilation No.2).

4.33. That the Assistant Post Master General vide letter dated 17.1.90 forwarded the applicant's case to Director Medical (Respondent No.3). A Photostat copy of aforesaid letter dated 17.1.90 is filed as Annexure 'XIII' to this application (Compilation No.2).

4.34. That the Assistant Post Master General sent another reminder dated 29.1.90 to the Director Medical (Respondent No.3) a Photostat copy of the aforesaid letter is filed herewith as Annexure 'XIV' to this application (Compilation No.2).

4.35. That the respondents are however sitting tight over the matter and the applicant has serious apprehension that the post of Medical Officers will be filled up without considering the case of the applicant.

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Rajiv

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5. Grounds for relief with legal provisions.

The applicant seeks relief inter-alia on the following grounds:

G R O U N D S

- I. Because most of the medical officers shown in Communication No. 8-3/88 medical dated 15th Sept. 1989 (Annexure No.1 ^{to} Compilation No.1) are junior to the applicant and are similarly situated and this being so the applicant's name has been arbitrarily omitted in the aforesaid list.
- II. Because in the circumstances of the case the applicant has been denied the equality of opportunity in the matter of appointment.
- III. Because from the entire facts, circumstances and material on the record, it is apparent that gross discrimination has been made in the case of the applicant.
- IV. Because the action of respondents is wholly unwarranted and is violative of articles 14 and 16 of the Constitution of India.
- V. Because bare perusal of Annexure '1' to Compilation 1 will show that the respondents are adopting different standards for similarly situated persons.

X Rajiv

VI. Because in the circumstances of the case it is evident that the respondents have adopted an arbitrary policy of pick and choose.

VII. Because the action of respondents is wholly unwarranted, illegal, and violative of principles of natural justice resulting in grave and irreparable loss to the applicant.

6. Details of remedies exhausted:-

1. Representation dated 3.4.89 (Annexure No.VI).
2. Representation dated 15.11.89 (Annexure No.X).
3. Representation dated 27.12.89 (Annexure No.XI).
4. Representation dated 9.1.90 (Annexure No.XII).
5. Personal interview with Director Medical on 27.12.89, 16.1.89, 17.1.89, 31.1.89 and other dates.
7. Matter not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

M X Raju

8. Reliefs sought:

In view of the facts mentioned in para 4 of this application, the applicant prays for the following :

R E L I E F S

1. That this Hon'ble Tribunal be pleased to allow the petition and the respondents be commanded to include the applicant's name in the panel declared on 15th September 1989 (Annexure 1 to Compilation No.1) and they may further be commanded to give the applicant appointment as Medical Officer after assigning his due seniority.

2. Such other and further orders be passed as may be deemed fit and proper in the circumstances of the case.

9. Interim order if any, prayed for.

In view of the facts and circumstances disclosed in this petition it is expedient in the interest of justice that the respondents be restrained from making any appointments to the posts of medical officers in dispensaries of P&T till the disposal of this petition and the applicant be adjusted in any of the vacancies till the disposal of this matter.

y

X Raju

-15-

10. In the event of application being sent by registered post, it may be stated whether the applicant desire to have oral hearing at the admission stage and if so, he shall attach a self addressed post-card or inland letter, at which intimation regarding

the date of hearing could be sent to him. *The petition is being filed through Shri D.C. Saxena, Advocate High Court Allahabad.*

11. Particulars of Bank/Draft/Postal order filed in respect of the application fee :

1. Postal Order:

DD 558229
3

2. Date:

27/3/90

3. Name of issuing Post Office:

Leads Road B.O.

4. Post Office at which payable.

Any where.

12. List of enclosures:

- Application.
- Annexure '1' impugned order dt. 15th Sept. '89.
- Postal Order.
- Vakalat nama.
- Index.

Lu

X Rajiv
6/4/90

VERIFICATION:

I, Rajiv Saxena, do hereby verify that the contents of paragraphs No. 4.1, 4.2, 4.3, 4.6, 4.8, 4.10, 4.11, 4.14, 4.29 and 4.35 are true to my personal knowledge, paras 1, 2, 4.4, 4.7, 4.9, 4.12, 4.13, 4.15, 4.16 to 4.25, 4.27, 4.28, 4.30 to 4.34, 6, 7, 10, 11 and 12 are verified from record and paras 3, 4.26, 5, 8 and 9 are verified from legal advice.

Lu

6-4-90

X Rajiv
6/4/90

16 Annexure No A-I
Government of India
Ministry of Communications
(Department of Posts)
Dak Bhawan, New Delhi-110001

NO: 8-3/88-Medical

Dated 15/9/89

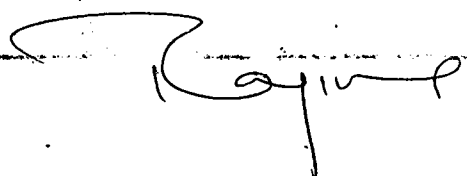
OFFICE ORDER

In pursuance of Ministry of Health & Family Welfare letter NO A 12026/9/88-CHS-I dated 2.11.88, NO. A 12026/26/88-CHS-I dated 19.1.89 and letter No A.12026/9/88-CHS-I(Vol-II) dated 8.5.89, the following Medical Officers appointed on monthly wages(Contract) basis have been taken on the strength of P&T Dispensaries as Medical Officers on adhoc basis in the pay scale of Rs: 700-1300 (revised, to Rs: 2200-4000/- w.e.f. 1.1.86) from the date (s) of their respective appointments as indicated against each (subject to verification by the Circle Heads) and also the same benefits of leave, maternity leave, increment on completion of one year service and other benefits of service conditions as are admissible to the Medical Officers appointed on regular basis. The one day artificial breaks may also be treated as leave due and admissible as per Ministry of Health & Family Welfare letter dated 2.11.88 referred to above.

S.NO.	Name of Medical Officer and Dispensary	Date of Birth	Date of continuous appointment (subject to verification)
1.	Dr.(Mrs) K.S. Mundkur P&T Dispy No-I, Pune	25.12.1957	25.7.1983
2.	Dr.(Miss) M.N. Nailk P&T Dispy No-II, Pune	12.7.1954	16.2.1988
3.	Dr. Davinder Singh Hanspal P&T Dispy, Amritsar	4.6.1959	19.10.1985
4.	Dr.(Mrs) Sunita Choudhary P&T Dispy, Ambala	6.2.1960	22.9.1987
5.	Dr.(Mrs) Poonam Agarwal P&T Dispy, Bareilly	24.4.1949	23.8.1978
6.	Dr. K.K. Sharma P&T Dispy.No.III, Lucknow	9.9.1956	26.2.1986
7.	Dr. J.P. Narain P&T Dispy. Varanasi	29.1.1945	17.10.1986
8.	Dr.(Miss) Farida Arjum P&T Dispy, Gaya	17.7.1960	16.1.1988
9.	Dr. H.R. Shah P&T Dispy.No-I Ahmedabad	14.5.1959	28.4.1984
10.	Dr.(Mrs) S.S. Kela P&T Dispy, No. I Ahmedabad	7.10.1958	15.11.1982

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1	2	3	4
11.	Dr. P.R. Shah P&T Dispy, No-I Ahmedabad	27.2.1956	20.3.1986
12.	Dr. (Mrs) R.D. Shah P&T Dispy No-II Ahmedabad	14.10.1958	20.9.1984
13.	Dr. C.N. Desai P&T Dispy No-II, Ahmedabad	16.7.1958	9.9.1988
14.	Dr. R.J. Jhala P&T Dispy No-III, Ahmedabad	7.3.1961	28.11.1984
15.	Dr. B.R. Shah P&T Dispy. No. III Ahmedabad	25.3.1957	24.3.1986
16.	Dr. (Mrs.) S.K. Trivedi P&T Dispy. Vadodara	23.8.1958	20.2.1987
17.	Dr. K. Jeyabalan P&T Dispy. Trichy	10.10.55	20.8.1985
18.	Dr. (smt) Sudeshna Paul P&T Dispy, Jalpaiguri	15.1.1960	1.1.1980
19.	Dr. (Mrs) Sushma Gupta, P&T Dispy No-II, Lucknow	21.7.1960	7.8.1987
20.	Dr. (Mrs) Meena V. Dhyey P&T Dispy No-II, Jabalpur	29.9.1961	18.11.1988
21.	Dr. (Mrs) A.K. Joshi, P&T Dispy, Jodhpur	1.10.1961	19.9.1988

These Medical Officers will continue to be treated as adhoc appointees and their adhoc service will not create any right in their favour for being brought on to regular establishment. They shall be continued in service till regular appointments are made to these posts. The appointments of these Medical Officers will be treated outside the Central Health Services (CHS). They are liable to be transferred subject to exigency of services.

Facilities of GPF/LTC/Education Allowances/reimbursement of tuition fee/Medical facilities and accommodation facilities would be respective rules/orders and instructions issued by the Central Govt. in this behalf from time to time as in the case of Medical Officers appointed on regular basis. Annual Confidential Reports of these Medical Officers will be maintained as in the case of other employees.

On the points whether these orders will apply to those Medical Officers whose services have already been terminated and are not in service at present or who were initially working on monthly wage basis and have subsequently been appointed on regular basis through MHC and whether medical examination and verification of character and antecedents in respect of these Medical Officers are necessary, the Department of Personnel and Training etc, are being consulted by the Ministry of Health & Family Welfare. Necessary orders on these points would follow.

* Applicable to the concerned M.Os subject to the provisions of the

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Rajiv

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- 3 -

These orders will take effect from the date of issue and pay of the officers who have completed one year's services fixed from the retrospective effect after condoning the artificial breaks by grant of leave admissible and due. The officers who have not yet completed one year's service will continue to draw minimum salary of Rs 2000/- (in the scale of Rs 2000-3500) plus other eligible allowances and their pay regulated under normal rules after one year's service.

S. Azad
(DR. S. AZAD) 15/9/88
DIRECTOR(MEDICAL)
TELE NO: 386291

Copy to:-

1. Chief Postmaster General, Bombay/Chandigarh/Ambala/Lucknow/
Patna/Ahmedabad/Madras/Bhopal/Jaipur.
2. All the Local Co-ordination officers of PMT Dispensaries
with the request to confirm the adhoc appointments as mentioned
above.
3. All the officers concerned.
4. Under Secretary(CHS-I Section), Ministry of Health and Family
Welfare, New Delhi w.r.t. their letter No A 12026/9/88-CHS-I
(Vol-II) dated 8.5.89.
5. Hindi section for Hindi translation.

S. Azad
(DR. S. AZAD) 15/9/88
DIRECTOR(MEDICAL)
TELE NO: 386291

T.C.

Rajiv

attested T.C.
Defence
Advocate

INDIAN POSTAL AND TELEGRAPH DEPARTMENT
OFFICE OF THE TELEGRAPH TELECOM. (CENTRAL AREA) LUCKNOW

NO. ADM(3)/19-2/85/5 Dated at Lucknow-226001 the, 8-4-85.

Out of the interim panel of five doctors formed vide this office memo No. ADM(3)/19-2/85/5 dtd. 28.6.84 only two doctors namely Mr. (Mr. S.) Mridula Kapoor and Mr. P. N. Srivastava were available, as such the names of doctors were further called for from the local employment exchange, so that some more doctors may be kept on the panel in order to manage the leave vacancies of regular doctors.

2. The following doctors sponsored by the professional and executive employment officer, Lucknow were interviewed by the C.M.O., on 2.4.85 and selected for the interim panel of doctors for appointment as Junior Medical Officer on daily wages in P.T. Dispensaries at Lucknow purely on temporary and adhoc basis, against the leave vacancies of regular Medical Officers for a period not exceeding 30 days.

3. Their appointments will be out side the Central Health Services they will have no preferential treatment or right for selection to a regular post on account of such appointments. They will be employed subject to availability of vacancies. Their services are liable to be terminated at any time without assigning any reason and without giving any notice at the discretion of appointing/controlling authority.

4. When employed, their remuneration will be governed in accordance with G.O. India, Ministry of Communications, P.T. Board New Delhi, O.M. No. 21-8/81-82 dtd. 7.4.82.

5. The doctors kept on the interim panel shall be required to join duty from a given date at a very short notice any about one or two days in advance.

6. They will also not undertake private practice of any kind during the period of their employment.

7. REVISED INTERIM PANEL

<u>No.</u>	<u>Name of the doctor</u>	<u>Tel. No.</u>	<u>Address</u>
1.	Mr. (Mr. S.) Manish Kumar	35026 873186	24, Usha Nagar, Ram Nagar Lucknow
2.	Mr. (Mr. S.) Ananta Gupta	32698	Flat No. 6, 3, Gokhale Marg Lucknow.
3.	Mr. (Mr. S.) Ananta Sharma		148/54, Bagawan, Lucknow-4
4.	Mr. (Mr. S.) Gov Kumar Saxena	32170.	39, Cantt. Road, Lucknow

8. This interim panel of doctors is liable to be terminated at any time without giving any prior notice and without assigning any reason.

9. The two doctors of previous interim panel as named in para (1) will rank senior to the doctors named in para 7 above.

(A.K. Nayik)
Asstt. Director Tel. com. (A)
Central Area, Lucknow.

Copy to:-

1. The Dy. C.M. (Adm.) O/O G.M.T. U.P. Circle Lucknow
2. The ALT (P) O/O G.M.T. U.P. Circle, Lucknow - Mahanagar
3. The M.O. I/O, P.T. Dispensaries I, II, III, Lucknow
4. The C.M.O. P.T. Conl. Pressed Road, Lalbagh, Lucknow

X T C
16/4/917

पत्र-व्यवहार-7/Corr.-7

भारतीय ~~पत्र~~ विभाग/INDIAN P. & T. DEPARTMENT

कार्यालय/Office of the

Pr-4d.

निदेशक, डाक सेवाएँ
 जनसंख्या क्षेत्र, लखनऊ-226007
 Director Postal Services
 Lucknow Region, Lucknow-226007

To

Shri Rajeev Kumar
 Saxena

39, Canal Road
 Lucknow

NO RDL/Disp/pt/12 dt 11/7/85
 Subject: Adhoc. appointment to
 the post of JMO at P&T
 Dispensary III Mahanagar Lucknow

—XXXXX—

Please join as JMO
 in P&T Dispensary III Mahanagar
 on adhoc and purely temporary
 basis, without ^{any} further delay.
 This is Regd.

for

Kumar
 निदेशक, डाक सेवाएँ
 जनसंख्या क्षेत्र, लखनऊ-226007
 Director Postal Services
 Lucknow Region, Lucknow-226007

Copy to the M.O. P&T Dispensary
 III Mahanagar, enjoining
 absent to this office. XP/Pkt. dt.
 10.7.85. He/she will please enter
 the date of joining of Dr. Saxena
 at once to this office.

निदेशक, डाक सेवाएँ
 जनसंख्या क्षेत्र, लखनऊ-226007
 Director Postal Services
 Lucknow Region, Lucknow-226007

T. C

Rajeev

attested
Dehra
 Advocate
 16.9.90

उत्तर देते समय कृपया
निम्न सत्य व
In reply
Please quote

प्रेषक
From
सेवा में
To

Annexure No. IV
Medical Officer in charge
Post & Telegraphs, Ispy-I
Hazratganj, Lucknow.

सं. संख्या
Memo No. STA/SS3/PK/1 dated 12.8.86

दिनांक
Dated 10/11/86, 22.8.86

विषय

Subject Transfer & posting of
Medical Officers in Pet Dispensary
Hes in circle arrangement.

In the pursuance of Pmc up circle
letter Memo No STA/SS3-PK/1 dated 10.8.86
the following transfers & postings have been
by order with immediate effect-

1. Dr. Navneet Kishore Medical Officer
Pet Dispensary Rajendra Nagar Lko is trans-
ferred & posted to Pet Disp. I Hazratganj
Lko vice Dr. Kapil Sood granted leave.

2. Dr. Rajiv Saxena Medical Officer (Jr) Pet
Disp. I (Lw) on relief will work as Pet
Disp. II Rajendra Nagar Lw till further orders
Memo No. 1

Charge reports should be submitted to

all concerned.

Copy to:-

1-2. Officers concerned.

3. Pmc, U.P. Circle Lko with reference
to his memo No STA/SS3-PK/1 dated
12.8.86.

4. DPS Lucknow Regn Lko for info.

Medical Officer in charge
Post & Telegraphs, Ispy-I
Hazratganj, Lucknow.

attested
Signature
Date

Rajiv

16/11/90

23

Annexure 41

No V

A/30

DEPARTMENT OF POSTS.

OFFICE OF CHIEF POSTMASTER GENERAL, U.P. CIRCLE, LUCKNOW.

MEMO NO. STA/567-PK/6

Dated: 26.3.1989

Postmaster General, U.P. Circle, Lucknow has granted to Dr. K.A. Khan M.O. P&T Dispensary, Rajendra Nagar Lucknow-II the following kinds of leave subject to admissibility of leave being certified by the DPA, Lucknow.

EL 20.7.87 to 28.7.87 = 9 days
 EL 27.3.89 to 30.4.89 = 35 days (Prefix 26.3.89 Sunday)

Certified that Shri K.A. Khan would have continued to work on the same post but for proceeding on leave. Dr. H.K. Saxena, Adhoc MD P&T Dispensary, Mahanagar, Lucknow will work against leave vacancy of Dr. K.A. Khan w.e.f. 27.3.89.

Charge reports should be submitted to all concerned.

(V.N. Kapoor)
 A.P.M.G. (Staff)
 for Chief P.M.G., U.P.

Copy to :-

1. DG Posts (SPG), New Delhi.
2. DPA (Admn. I-GE), Lucknow for certifying admissibility of leave referred to above.
3. PMG, Lucknow.
4. Dr. Rajeev Kumar Saxena, Adhoc MD P&T Disp.-III, Mahanagar, Lucknow.
5. Dr. K.A. Khan, MD P&T Disp-II, Rajendra Nagar, Lucknow.
6. SSGs, Lucknow.
7. Chief Postmaster, Lucknow.
8. MD I/c P&T Disp. Lucknow-II Rajendra Nagar, Lucknow.
9. Office copy.

T.C

Rajiv

attested
 Debar
 Asst Secy
 16-4-90

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A-VI

Annexure No. 'VI'

To,

The Chief Post Master General
U.P. Circle,
Lucknow.

Subject: Revised posting order.

Sir,

In pursuance of your Memo No. STA/567-PK/6 dated Lucknow 20.3.89. I reported at dispensary II, Rajendra Nagar, Lucknow on 27.3.89. after being relieved from Mahanagar, dispensary III,

Dr. K.A. Khan, M.O. P&T dispensary, Rajendranagar Lucknow told me that he is proceeding on leave after a fortnight in the presence of Medical Officer I/C Rajendra Nagar.

Today, I have come to know from Dr. Khan & M.O. I/C Rajendranagar that he has cancelled his leave and have reported the same to you, Sir,

I request you, Sir, kindly to issue the revised orders of my posting.

Thanking you,

Yours faithfully,

(Dr. Rajiva K. Saxena)
Medical Officer (Adhoc)
P & T Disp. II, Lucknow.

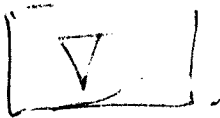
3/4/89.

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T.C

Rajiva

attested
Saxena
16-4-90



DEPARTMENT OF POSTS, INDIA
OFFICE OF THE POSTMASTER GENERAL U.P. CIRCLE LUCKNOW-220001
MEMO No. STA/193-PL/6 Dt. at Lw. 1/89

Postmaster General U.P. Circle has granted to Dr. Lalit Prasad M.O. Disp. III, Lucknow the following kinds of leave subject to admissibility of leave being certified by the D.P.A., Lucknow:-

Earn Leave 23.1.89 to 4.2.89 - 13 days
(Suffix- 5.2.88/Sunday)

Certified that Dr. Lalit Prasad would have continued to work on the same post but for proceeding on leave.

Charge reports should be submitted to all concerned.

Dr. R.K. Saxena, M.O. (Senior most M.O. of approved panel) will work in the leave vacancy so caused on purely adhoc and contract basis.

(D.D. Pandey)
A.O. (P)

For Postmaster General U.P. Circle
Lucknow-1

Copy to:-

1. D.G. (Posts) (DPO) New Delhi-110001
2. DPA (Admn. I Gr) Lucknow for certifying admissibility of leave referred to above.
3. Dr. Lalit Prasad M.O. Disp. III LKO.
4. Dr. R.K. Saxena M.O., Contingent LKO.
5. P.M. Lucknow CPO.
6. C.M.O. PAF Disp. Lucknow-III
7. O/C.

T.C

SAXENA 2011969 1

Rajiv
attested
Deafena
Advocate
16-4-90

Government of India
Ministry of Communications
(Deptt. of Posts)
Dak Bhawan, New Delhi-110001

NO: 8-3/88-Medical

Dated

The Postmaster General,
Ahmedabad/Ambala/Bhopal/Bombay/Bhubneswar/
Calcutta/Chandigarh/Guwahati/Hyderabad/Jaipur/
Lucknow/Madras/Patna/Shillong/Srinagar

General Manager Telecom. Factory,
Bombay/Calcutta/Jabalpur.

Controller of Telecom. Stores, Calcutta.

Principal, Postal Training Centre,
Darbhanga/Mysore/Vadodara/Madurai/Saharanpur

Sub:- Adhoc appointment to the posts of Medical Officers
Revision of instructions-

Sir,

I am directed to enclose herewith Ministry of Health & Family Welfare letter No A- 12026/9/88-CHS-I with above subject and to request that particulars of such medical Officers whose adhoc appointments are likely to continue/ have continued for more than one year may kindly be sent to this office immediately in the proforma given below:-

S.NO.	Name of the MO working on adhoc basis with Professional qualifications	Date of Birth	Date of continuous appointment
1	2	3	4

Name of the Dispensary (Dispensarywise)

Yours faithfully,

(DR. S. AZAD) 11/1/88
DIRECTOR (MEDICAL)
TELE NO: 386291

- Copy alongwith a copy of the letter referred to above to:-
1. All the Local Co-ordination Officer-in-Charge of P&T Dispensaries.
 2. All the CMOs/M.O.-in-Charge of P&T Dispensaries.
 3. Ministry of Health & Family Welfare (CHS-I Section) Nirman Bhawan, New Delhi-110011 with the request to clarify the date of effect of their above orders and whether arrears are to be paid with retrospective effect i.e. from the date of original appointment or from the date of issue of the above orders (2.11.88).
 4. Hindi section for Hindi translation and cutting the stencils.

(DR. S. AZAD) 11/1/88
DIRECTOR (MEDICAL)

attested
Deputy
Admiral
16-4-90
Rajiv

827

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NO: A.12026/12-78-CHS-I
Government of India
Ministry of Health & Family Welfare
(Department of Health)

New Delhi, the 2.11.88

All the participating units in the CHS.

Subject: Adhoc appointment to the post of Medical Officer - Revision of instructions -

Sir/Madam,

The appointment to the Medical Officers Grade of the CHS in the pay scale of Rs. 2200-75-2800-EB-100-4000 is made in accordance with the CHS Rules, 1982. As the candidates recommended by the UPSC usually take long time in joining the posts for one reason or the other and in order not to disrupt the patient care facilities in the dispensaries/hospitals run by the participating units of the CHS like CGHS and other Orgns. under the administrative control of Dte. G.H.S. Delhi Administration, P&T, Ministry of Labour, Ministry of Finance, Assam Rifles etc. all over the country, it was decided to employ Medical Officers on adhoc basis from time to time. The practice of making appointments on adhoc basis was, however, discontinued from the year 1978 as a matter of policy. In order to tide over the difficult position in running the dispensaries on account of shortage of Medical Officers, it was decided to authorize the participating units to make appointments of Medical Officers on monthly wages basis as a stop-gap arrangement vide this Ministry's letter No A 12026/12-78-CHS-I dated 11.5.78. The Medical Officers appointed in accordance with the guidelines/instructions issued by this Ministry were entitled to the consolidated wage at the rate of Rs. 1155/- p.m. Later on they were given the minimum of the scale of pay of Rs. 550-1200 revised to Rs. 2000-60-2300-EB-75-3200-100-3500 w.c.f. 1.1.86 plus all the allowances which are admissible to Medical officers at that station from time to time including NP2. They were not entitled to any increment. The appointments were made outside the CHS. Though the appointment was to be made for six months in the first instance, one day's break was given before appointment him/her afresh for every 90 days. Initially the maximum age limit for appointment of Medical Officer was 30 years which was enhanced to 35 years. Later on 7 days Earned leave for a period of 90 days service and one day Casual leave for one month's service were allowed to such Medical Officers.

2. Dr. (Mrs) Sangita Naranga and other appointed under Delhi Administration and Dr. Sunil Kumar Arya and Dr. Premod Kumar appointed under the CGHS, Delhi on monthly wage (contract) basis moved the Central Administrative Tribunal, Principal Bench, Delhi Dr. (Mrs) Sangita Naranga and others in various ordinary Applications have called in question the validity, legality and propriety of the policy adopted by the Directorate of Health Services, Delhi Administration in appointing them as Junior Medical officers on monthly wages (short term contract) basis for a period of 90 days in the first instance renewable after a break of a working day for another 90 days and claimed that they are entitled to equal pay, allowances and other benefits etc. as are admissible to other Medical Officers appointed on regular basis from the respective dates of their joining the service. They have further sought a declaration that their services are not liable to be terminated till the vacancies are filled up by regular appointment. Dr. Sunil Kumar

X

Rajiv

on which they did not actually discharge the duties on account of artificial breaks etc. at the end of every 90 days we direct that the said period would count as duty for continuity of service and the said will be treated as leave to which the applicant will be entitled at par with regular Jr. Medical officers Grade-II. Latest, we direct the respondents to report the cases to the UPSC of all those petitioners who are likely to continue on these posts on adhoc/temporary basis for more than one year as required by proviso (iii) to clause(b) of Regulation 4 of the UPSC (Exemption from the Constitution) Regulation, 1958 dated 1.9.58 ~~adverted~~ to above, for consultation and upon consultation with the UPSC they shall be continued in service in the light of the advice of the UPSC, till regular appointments are made to these posts. Accordingly, we allow all these applications and direct the respondents to implement the above order within three months from the date of the receipt of this order".

Similar judgement was given in the petition filed by Dr. Sunil Kumar Arya.

4. The Central Govt. filed SLPs against the judgements in the above two petitions. The SLP filed against the judgement in Dr. Sunil Kumar Arya's case came up for hearing before the Division Bench of the Hon'ble Supreme Court on 7.9.88. The Court has not admitted the SLP. In view of this, it has been decided that all the Medical Officers appointed on monthly wage (contract) basis would be entitled to the same pay scale and allowances and also the same benefits of leave, maternity leave, increment on completion of one year service and other benefits of service of one year service and other benefits of service conditions as are admissible to the Medical Officers appointed on regular basis in the pay scale of Rs. 700-1300 (revised to Rs. 2200-4000 w.e.f. 1.1.86) from the date(s) of their respective appointments. There will be no one day break in their service and they shall be deemed to have continued in service ever since the day of their first appointment. The days on which they did not actually discharge the duty on account of artificial break etc. at the end of every 90 days, the same will be treated as leave to which the applicant will be entitled at par with regular Medical Officers. Such Medical Officer shall be continued in service till regular appointments are made to these posts. The appointments of such Medical Officers will be outside CHS.

5. However, CAT rejected the petitioners' contention that they should be deemed to have been employed on regular basis. Therefore, their appointments will continue to be treated as adhoc. The cases of such adhoc Medical Officers whose adhoc appointments are likely to continue/have continued for more than one year, should be reported to the Ministry within 10 days for making a reference to the UPSC as per CAT's judgement.

6. The receipt of this communication may please be acknowledged.

Yours faithfully,

Sd/-

(R.N. TEWARI)

DEPUTY SECRETARY TO THE GOVT. OF INDIA

T.C.
Rajiv

attested
D. S. J.
16.4.90

attested
J. S. S. S.
Hawell
16-9-90

To,

Dr.S.Azad,
Director (Medical),
Department of Posts,
New Delhi.

Subject : - Posting Orders.

Sir,

I was selected for the post of Junior Medical Officer by the selection committee and was first posted in P & T disp. III, Mahanagar in 6/85. in P & T disp. I, Hazratganj in 12/85 & 1/86, in intermittent spells in May, June, July in different dispensaries at Lucknow. In July '86 I was posted at the P & T disp I, Hazaratganj and subsequently transferred to P & T disp II, Rajendra nagar, Lucknow on 6th August, 1986, where I worked till Oct, 86.

In March, I was then transferred to P & T disp II, Rajendranagar, again from P & T disp III, Mahanagar in place of Dr.K.A.Khan, who was proceeding on leave. After handing over charge at Mahanagar P & T disp, I reported in P & T disp II, Rajendranagar where I was told Dr.K.A.Khan had cancelled his leave. I have been applying for the revised orders which are to be made by your Office now(ref to my letter dt.4/89).

Surprisingly, however, my name did not figure in the list of Medical Officers appointed on monthly basis & later on taken on the strength of the P & T dispensaries.

X Contd...2.

Rajendra
Attested
Adm

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- : 2 : -

I will be grat-ful, if you could kindly order my posting in any dispensary, preferably, at or near Lucknow, (many of which are lying vacant) and include my name in the list of medical officers appointed on monthly basis wages (contract) who are later taken on the strength of P.&T dispensaries vide your communication No. 8-3/88. Medical dt. 15 Sept. 1989 addressed to nil, copy to Chief P.M.O., U.P. Circle, Lucknow (copy of which is enclosed for your ready reference).

Thanking you,

Yours faithfully,

Rajiv

(Dr. Rajiva K. Saksena)
Medical Officer (waiting posting)
39, Cantt. Road, Lucknow.

Dt. 15/11/89

T.C

Rajiv

attested
D. B. Jais
Admiral
16-8-1990

46

To,

Dr. S. Azad,
Director (Medical),
Department of Posts,
NEW DELHI.

Sir,

Kindly refer to my earlier representations dt. 4/89 and 15/11/89 (copy of which is enclosed for your ready reference) for which no communication has been received by me till now.

I will be grateful if you could kindly order my posting and addition of my name in the list circulated vide letter No. 83/88 dt. 15th September 1989 of your office.

Thanking you,

Yours faithfully,

Rajiva

(Dr. Rajiva Saksena)
M.O., P&T Deptt. Disp. II
(awaiting posting)

39, Contonment Road,
LUCKNOW .

2 Enclosures

Dt. 27.12.89

T. C

Rajiva

attested
De Jancus
Admiral
16-4-1990

To,

Dr. S. Azad,
Director (Medical),
Deptt. of Posts,
Dak Bhawan,
New Delhi-110001

Through the Chief Postmaster General, Lucknow.

Sir,

Kindly refer to my earlier representations dt. 4/89, 15.11.89 and 27.12.89 (copy of which is enclosed for your ready reference) for which no communication has been received by me till now.

I will be grateful if you could kindly order my posting at or near Lucknow (My wife is posted in Lucknow under State Govt.) and addition of my name in the list circulated vide letter No. 8-3/88 dt. 15th Sept., 1989 of your office.

Thanking you,

Yours faithfully,

Encl: Three |

(Dr. Rajive Kr. Saxena)
M.D.

M.O., P&T Disp. II
(awaiting posting)
39, Cantt. Road,
LUCKNOW

Dt. at Lw. 9.1.1990 |

T.C

Rajive

attested
Deftang
Adurza
16-4-1990

357# Annexure No XIII

S2/

STA/283-PR/4

V.N. Kapoor
APMG (Staff)

17/1/90

Dear Dr. Azad,

Kindly find enclosed herewith an application dt. 9.1.90 of Dr. Rajive Kumar Saxena, Ex. M.O. P&T Disp. II (ad hoc) addressed to you for necessary action at your end. He has requested for inclusion of his name in the list circulated by the Dte. letter No. 8-3/88 dt. 15.9.89.

CPMG has seen the case.

With regards,

DA: a/a

Yours sincerely,

(V.N. Kapoor)

Dr. S. Azad,
Director (Med.)
Deptt. of Posts,
New Delhi-110001

T. C.
Rajive

17/1
attested
Dejane
Advocate
16-4-90

3617 Annexure No ^AXIV

STA/283-PN/4

V.N.Kapoor,
Asstt. Postmaster-General(S)

29th Jan'1990

Dear Dr. Azad,

In continuation of my D.O. letter no. even dated 17.1.1990 (Copy enclosed), kindly find enclosed herewith an application dated 29.1.1990 addressed to you for necessary action at your end. He has requested for inclusion of his name in the list circulated by the Directorate letter No. 8-3/88 dated 15.9.89.

With

Yours sincerely,

Dr. S. Azad,
Director (Medical)
Department of Posts
Dak Bhawan,
New Delhi-110001.

(V.N.Kapoor)

Copy to Dr. Rajiv Kumar Saxena, 39, Centt. Road, Lucknow.

T.C. For Chief Postmaster General,
U.P. Lucknow.

Rajiv

attested
D. S. Saxena
Advocate
18.4.90

circumstances stated in the accompanying

2. THAT in view of the facts and

counter affidavit submitted by the respondents.

have been disclosed in the accompanying

1. THAT the full facts of the case

states as under :

above named applicants Most Respectfully

The humble application of the

Tribunal.

His other Companion Members of this Hon'ble

The Hon'ble the Vice Chairman and

To

Union of India and others Respondents

versus

Dr Rajiv Kumar Saksena .. Applicant

Registration O.A. No. 343 of 1990

In

Respondents

Union of India and others Applicants/

On behalf of

CIVIL MISC. STAY VACATION APPLICATION NO. 446/OF 1990

.....

ALLAHABAD BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

9/11/90

S. O. (J) to keep it with the and put up before Hon'ble Court for orders on <i>Defence</i>	D. R. 9/11/90
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Recd on
12-11-90

29/11/90 for order

29/11/90

Recd copy
for order
29/11/90

~~29/11/90~~

MD

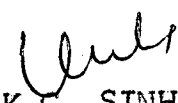
1/8
:: 2 ::

counter affidavit, it is expedient in the interest of justice that the stay order granted to the applicant may kindly be vacated, otherwise the applicants/respondents shall suffer irreparable loss.

P R A Y E R

It is, therefore, Most Respectfully Prayed that this Hon'ble Tribunal may graciously be pleased to vacate the interim stay granted by this Hon'ble Tribunal, otherwise the applicants/respondents shall suffer irreparable loss.

Dt/-9/11/20


(K.C. SINHA)
Addl Standing Counsel
Central Govt.
COUNSEL FOR THE APPLICANTS/RESPONDENTS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

...

COUNTER AFFIDAVIT

On behalf of the respondent nos.1, 3, 4 & 5

In

Registration O.A. No. 343 of 1990

Dr. Rajiv Kumar Saxena ... Applicant

vs

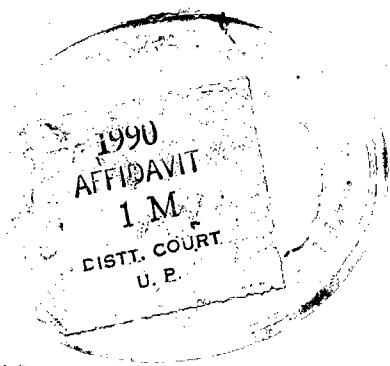
UNION OF INDIA and others ... Respondents

AFFIDAVIT of Shri R.B. Pandey
aged about 56 years, son of
Shri Late Satya Narain Pandey

(Deponent)

I, the deponent named above, do hereby
solemnly affirm on oath and state as under:

1. THAT the deponent is Assistant Postmaster Genl (staff) in the office of the respondent, and he has been authorised to file this counter affidavit, on behalf of the respondent nos. 1, 3, 4 and 5, and as such the deponent is fully conversant with the facts of the case deposed to hereinafter.



Handwritten signature

2. THAT the deponent has read over the contents of the application filed by the aforesaid applicant and he is in a position to reply the same.

3. THAT before giving parawise reply of the application, the deponent crave the indulgence of the Hon'ble Tribunal to give some brief facts of the case in order to facilitate this Hon'ble Tribunal in administering justice.

4. THAT the controversy has arisen in the Posts and Telegraph Dispensaries for having the services of the Medical Officers, but, due to non-availability of duly selected Medical Officers by the Union Public Service Commission, the Posts and Telegraph Department engaged certain Junior Medical Officers on daily wages purely on temporary and ad-hoc basis. The perusal of letter dated 8-4-1985 Annexure-2 to the application would go to show that the engagement was on temporary and on ad-hoc basis, against the leave vacancies of regular Medical Officers for a period of not exceeding 30 days. On 8-7-1986 a letter was issued for engaging the applicant, as a Junior Medical Officer on purely short



21/11/86 587448

term contract basis in Posts and Telegraph Dispensary No.2 Rajendra Nagar, Lucknow. A photostat copy of the letter dated 9-7-86 is being annexed herewith and marked as Annexure-CA-1 to this counter affidavit.

ANNEXURE-CA-1

5. THAT on perusal of the aforesaid letter, it would be clear that it was specifically mentioned in the said letter that the applicant's appointment was on short term contract basis outside the Central Health Services and he would have no claim whatsoever for any preferential treatment or right for selection to a regular post on account of this appointment and his services are liable to be terminated without giving any notice.

6. THAT in fact a policy was framed by the Director General Posts and Telegraphs New Delhi to have a panel of such Medical Officers who can be engaged on an ad-hoc basis and on daily wages basis and who has continuous service not less than one year, In the same condition, the applicant continues as a Junior Medical Officer in the Posts and Telegraphs Dispensary at Lucknow/GMP on different occasions against the leave or

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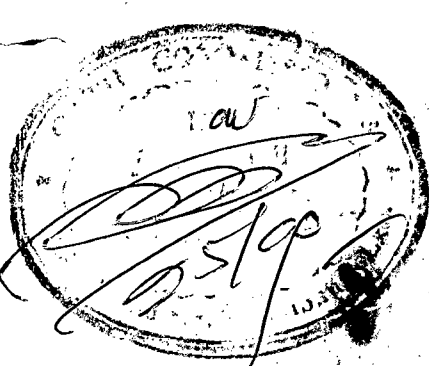
short term vacancies between June, 85
to March, 89.

7. THAT the services of the applicant were not utilised after March, 1989, because, Ministry of Health has imposed a ban for any such ad-hoc contract or temporary arrangement, by a letter dated ~~2-11-88~~. A photostat copy of the said letter is being annexed herewith and marked as Annexure-CA-2 to this counter affidavit.

ANNEXURE-CA.2

8. THAT the Ministry of Health and Family Welfare also issued a letter dated 2-11-88 stating therein that the Medical Officer working on short term contract and continuing from their initial appointment against the regular vacancy, may continue till the regular Medical Officer join in their places and they were given the same regular pay scale after completion of one year continuous service. A photostat copy of the letter dated 2-11-88 is being annexed herewith and marked as Annexure-CA. 3 to this counter affidavit.

ANNEXURE-CA-2.



[Handwritten signature]

9. THAT on 19-1-1989 another letter was issued by the Ministry of Health and Family Welfare in countuation of the earlier letter dated 2-11-88, through which it was asserted that the ad-hoc appointment can be made on the same pay scale of regular Doctors., and they will not be given any break and those Medical Officers will be continue to be treated as ad-hoc appointee and their ad-hoc services will not accrue any right for regular appointment and for being brough on the regular establishment.

10. THAT the applicant has been working only on leave vacancy of Medical Officer for short intermittent spells up to March,89, and as such he could not be taken into regular strength of Medical Officers.

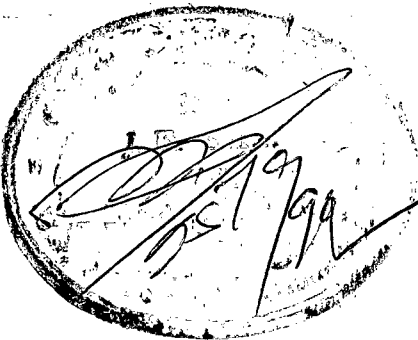
PARAWISE REPLY

11. THAT the contents of paragraph nos. 1, 2 and 3 of the application need no comment.

12. THAT the contents of paragraph, nos. 4(1), 4(2) and 4(3) of the application need no comment.

21/2/90

13. g THAT the contents of paragraph 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, 4-10, 4-11, 4-12, 4-13, 4-14, 4-15, 4-16, 4-17, and 4-18 of the application are not correct as stated. However, it is respectfully submitted that a detailed reply has already been furnished in the fore-going paragraphs, hence need not to be repeated here. It is further submitted that the applicant has worked only against the leave vacancy of regular Medical Officers for short intermittent spells only and was not working at that time against the regular vacancy and as such he could not be taken into the regular Officer as there was no clear vacancy. At the time when the letter dated 15-9-89 was issued, the applicant was not working in any of the dispensary of the Posts and Telegraphs Department.



14. THAT the contents of paragraph 4-19, 4-20 and 4-21 of the application need no comment, being the matter of record. However, it is submitted that the petitioner has not given the reference of the cases which have been referred under paragraph reply.

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It is further submitted that the letter dated 2-11-88 specifically states that a Medical Officer working at short term continuously from the initial appointment against the regular vacancy and continue in their place without any break, till the regular Medical Officer selected through Union Public Service Commission join on their place and they were also allowed the same ~~pay~~ pay scale of regular Medical Officer after completion of one year and they were taken on the strength of Medical Officer vide letter dated 19-1-1989. The applicant was only against a leave vacancy of a regular Medical Officer and not against the regular vacancy and as such it could not be taken on the regular strength of the Medical Officer.

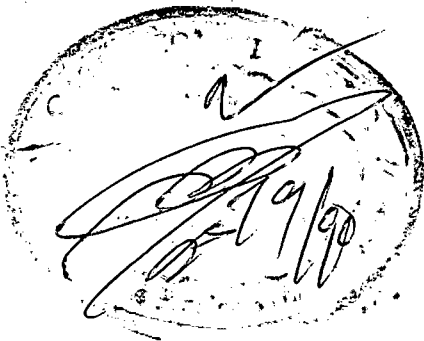


15. THAT in reply to the contents of paragraph 4-22, 4-23 and 4-24 of the application it is submitted that the Medical Officer are appointed on ^{short} term contract basis who are working continuously from the initial appointment with only one days break, as Medical Officer. When the information was called by the Director General of Posts & Telegraphs New Delhi, as per the direction of Ministry of Health and Family Welfare about the regular strength

17/11/88

of such Medical Officers vide letter dated 15-9-89. The petitioner was not working in any dispensary at that time of the issue of the aforesaid letter.

16. THAT the contents of paragraph 4-25 of the application are not correct as stated. It is further submitted that no seniority list of the ad-hoc and short term Medical Officers has been maintained and as such the question of any senior and junior of short term Medical Officers, does not arise. Only on actual basis that the ~~xxxxxxxxxx~~ action was taken according to the letter dated 15-9-89 covering Medical Officers working on the said crucial date. The applicant was not governed from the panel of the Medical Officers.

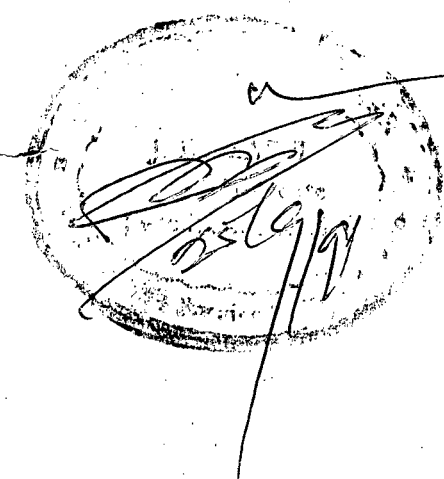


17. THAT the contents of paragraph 4-26 of the application are not correct and hence are denied. It is absolutely wrong to alledge that the applicant has been ignored, contrary to this when the applicant was not on the strength within a short term arrangement on 15-9-89, the

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benefit of this letter was not given to him.

18. THAT the contents of paragraph 4-27 of the application are not correct and hence are denied. A detailed reply has already been furnished. It is further submitted that since the appointment is on Circle level of staop gap arrangement the seniority list is not maintained, as such, the pleading in paragraph under reply is totally misconceived.



19. THAT in reply to the contents of paragraph 4-28 of the application it is submitted that as stated above, in view of the ban order with effect from 19-1-1989, the powers for engaging on short term contract basis of Medical Officer have been withdrawn and as such, the vacancy caused against Dr. Sood cannot be filled in by making ad-hoc appointment. In fact Dr. Sood was relieved on 27-2-1990 and regular Medical Officer has been adjusted from Bihar Circle against that vacancy.

20. THAT THE contents of paragraph

27/2/91

4-29 of the application are being replied that it is within the knowledge of the answering respondents and as such no positive comment are being offered.

21. THAT in reply to the contents of paragraph 4-30, 4-31, 4-32, 4-33. 4-34 and 4-35 of the application, it is submitted that all the representations referred in paragraph under reply have already been forwarded to the Ministry of Health and Family Welfare, but no positive reply has been received from the Ministry of Health. However, it is made clear that the power to make ad-hoc appointment on the basis of short term, has been withdrawn by the Ministry of Health in the cases of Medical Officers and as such, the answering respondents has no right to appoint the applicant, unless and until the Ministry of Health gives a clear signal to this effect.

22. THAT in reply to the contents of paragraph 5 of the application, it is submitted that none of the grounds taken by the applicant are sustainable in the eye of law and the petition is devoid of merit and is liable to be rejected in view of the letter dated 15-1-1999.

21/1/99

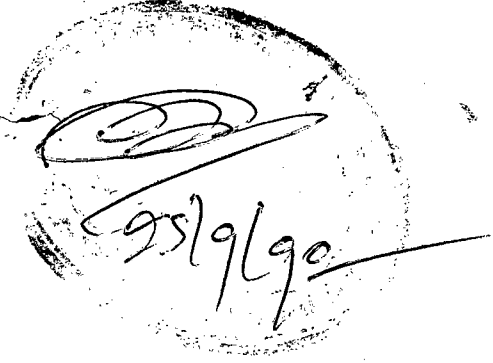
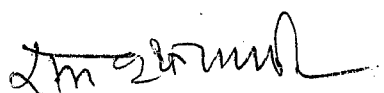
23. THAT the contents of paragraph 6 and 7 of the application need no comment.

24. ^{in reply to} THAT the contents of paragraph 8 of the application, it is submitted that in view of the facts and circumstances stated above, the applicant is not entitled for any relief as prayed under para reply.

25. THAT in reply to the contents of paragraph 9 of the application, it is submitted that in view of the facts and circumstances stated, the applicant has failed to make out any case for interreference of this Hon'ble Tribunal, and as such the question of granting interim relief does not arise. However, it is made clear that the applicant does not fulfill the criteria laid-down in the letter dated 15-9-89 and as such, the applicant cannot get any interim order.

26. THAT the contents of paragraph nos. 10, 11 and 12 of the application need no comment.

I, the deponent above named do

:12:

hereby solemnly affirm and state on oath
that the contents of paragraph nos. 1, 2, 17

of this affidavit are true to my personal
knowledge and the contents of paragraph
nos. 16 to 20, 22 to 24 —

of this affidavit are based on records and
the contents of paragraph nos. 21
of this affidavit are based on legal advice.
to which all, the deponent believes to be
true and that no part of this affidavit are
false and nothing material has been
concealed in it.

So help me God.

Lucknow:

(Deponent)

Dated 25th Sept. 1990.

I, V.K. Chaudhari, Advocate, Addl. Govt. Counsel,
Central Government, do hereby identify the
abovenamed deponent, that he is the same person
who is taking oath and I know him through the perusal
of record in his possession.

LUCKNOW DATED: 25 Sept 90

IDENTIFIER

Solemnly affirmed before me on this 25th day of..
Sept. 1990 at AM/PM by the deponent who is identi-
fied by Shri V.K. Chaudhari, Advocate Addl. Standing
Counsel (Central Govt.) I have satisfied myself by
examining the deponent that he has fully understood
the contents of this affidavit which has been read
over and explained to him by me.

Lucknow:

Oath Commissioner

Dated: 25/9/90

CI CODE OF THE POSTAL

Memo No: STA/393/1/1 dated at Lucknow, the 2-5-86.

The undersigned is directed to appoint.....

.....as Junior Medical Officer is purely short term contract basis in P&T Dispensary.....

.....on purely temporary and adhoc-basis. As contained in DG.P&T, New Delhi memo no. 2-4/84-Medical dtd. 20/9/84, there will be a break of one day after every continued ninety days working automatically without notice.

His/Her remunerations during the period of working will be governed in accordance with the instructions contained in G.O.I. Ministry of Communication, New Delhi G.M.O. No. 21-2/CI-SEA, dtd. 7/4/82 and DG P&T H.O., memo no. 2-4/84-Med. dtd. 20/9/84. Circulated to all concerned under this office no. STA/MCS/APPET/SMT/1, dated 20/9/85.

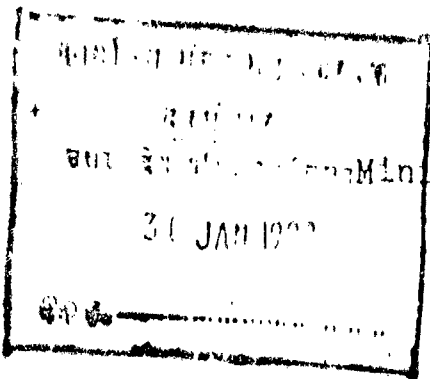
Dr. Rajendra Kumar.....should clearly understand that his/her appointment on short-term contract basis is purely temporary and on adhoc-basis, outside the central Health Services and he/she will have no claim whatsoever for any preferential treatment or right for selection to a regular post on account of this appointment. His/her services are liable to be terminated at any time without giving any notice and assigning reasons at the discretion of the appointing/controlling authority. He/she will also not undertake private practice of any kind, whatsoever, during his/her present assignment.

Charge reports should be submitted to all concerned immediately.

(D.C. Joshi) For Postmaster-General, (M) Circle.

Copy to:

- 1- The DG, Posts (Med) New Delhi-110001.
- 2- The Regional Director (Medical) Northern Region, 9, Beni Prasad Road, Lucknow.
- 3- Director Postal Services.....for ensuring terms & conditions stated above.
- 4- Director Postal Accounts, Lucknow.
- 5- Medical Officer Incharge, P&T Dispensary.....for ensuring terms & conditions stated above.
- 6- Senior Supdt. Post office,.....for ensuring terms & conditions stated above.
- 7- Postmaster.....
- 8- Dr. Rajendra Kumar.....
- 9- File STA/393/1/1
- 10- C/O.



ANNEXURE CA-2

No.A.12026/136/88-CHS.I
Government of India
Ministry of Health and Family Welfare
(Department of Health)

New Delhi, dated the 19.1.89

All participating units of the CHS
(as per 1185)

Subject: Ad-hoc appointment to the post of Medical Officer.
Revision of Instructions.

Sir,

In continuation of this Ministry's letter No.A.12026/9/88-CHS.I dated the 2nd November, 1988 on the above subject I am directed to say that in pursuance of the instructions contained therein the doctors appointed on monthly wage(contract) basis may be taken on year strength as Medical Officers on ad-hoc basis in the pay scale of Rs. 700-1300/- Revised to Rs. 2200-4000/- w.o.f. 1-1-1986 and allowed the same pay scale and allowance as also the same benefits of leave, maternity leave, increment on completion of one year's service and other benefits of service conditions as are admissible to the Medical Officers appointed on regular basis. The days of official breaks may also be treated as leave due and admissible as above. It is, however, clarified that these Medical Officers will continue to be treated as ad-hoc appointees and their ad-hoc service will not create any right in their favour for being brought on regular establishment.

The appointments on monthly wage(contract) basis in all participating units with immediate effect and the powers delegated to the participating units vide this Ministry's letter No.A.12026/12/88-CHS.I dated the 11th May, 1979 are hereby withdrawn.

The receipt of this communication may kindly be acknowledged.

Yours faithfully,

(R.C. SHARMA)

UNDER SECRETARY TO THE GOVT. OF INDIA

Copy to CHS.I/CHS.II/CHS V Sections.
U.P. CHS.I/CHS.II/CHS.III/CHS.IV Sections.

(R.C. SHARMA)

UNDER SECRETARY TO THE GOVT. OF INDIA

(Post Address General)
U. P. Bole Lucknow-226001

dtm - 2/1/89
25/1/89

NO: A.12026/12/88-CHS-I
 Government of India
 Ministry of Health & Family Welfare
 (Department of Health)

New Delhi, the 2.11.88

All the participating units in the CHS.

Sub:- Adhoc appointment to the post of Medical Officer - Revision of instructions -

Sir/Madam,

The appointment to the Medical Officers Grade of the CHS in the pay scale of Rs. 2200-75-2800-EB-100-4000 is made in accordance with the CHS Rules, 1982. As the candidates recommended by the UPSC usually take long time in joining the posts for one reason or the other and in order not to disrupt the patient care facilities in the dispensaries/hospitals run by the participating units of the CHS like CGHS and other Orgns. under the administrative control of Dte. G.H.S. Delhi Administration, P&T, Ministry of Labour, Ministry of Finance, Assam Rifles etc. all over the country, it was decided to employ Medical Officers on adhoc basis from time to time. The practice of making appointments on adhoc basis was, however, discontinued from the year 1978 as a matter of policy. In order to tide over the difficult position in running the dispensaries on account of shortage of Medical Officers, it was decided to authorise the participating units to make appointments of Medical Officers on monthly wages basis as a stop-gap arrangement vide this Ministry's letter No. A 12026/12-78-CHS-I dated 11.5.78. The Medical Officers appointed in accordance with the guidelines/instructions issued by this Ministry were entitled to the consolidated wage at the rate of Rs. 1155/- p.m. Later on they were given the minimum of the scale of pay of Rs. 550-1200 revised to Rs. 2000-60-2300-EB-75-3200-100-3500 w.e.f. 1.1.86 plus all the allowances which are admissible to Medical officers at that station from time to time including NPA. They were not entitled to any increment. The appointments were made outside the CHS. Though the appointment was to be made for six months in the first instance, one day's break was given before appointment him/her afresh for every 90 days. Initially the maximum age limit for appointment of Medical Officer was 30 years which was enhanced to 35 years. Later on 7 days Earned leave for a period of 90 days service and one day Casual leave for one month's service were allowed to such Medical Officers.

2. Dr. (Mrs) Sangita Narange and other appointed under Delhi Administration and Dr. Sunil Kumar Arya and Dr. Promod Kumar appointed under the CGHS, Delhi on monthly wage (contract) basis moved the Central Administrative Tribunal, Principal Bench, Delhi. Dr. (Mrs) Sangita Narange and others in various ordinary Applications have called in question the validity, legality and propriety of the policy adopted by the Directorate of Health Services, Delhi Administration in appointing them as Junior Medical officers on monthly wages (short term contract) basis for a period of 90 days in the first instance renewable after a break of a working day for another 90 days and claimed that they are entitled to equal pay, allowances and other benefits etc. as are admissible to other Medical Officers appointed on regular basis from the respective dates of their joining the service. They have further sought a declaration that their services are not liable to be terminated if the vacancies are filled up by regular appointment.

2m 28 m 1988

28/9/88

Arya and Dr. Promod Kumar were initially appointed on monthly wage basis for 90 days and were continued from time to time after intermittent break of one day. Services of both these Medical Officers were terminated. Both challenged the legality and validity of termination of their services and sought a declaration that having continued in service as Jr. Medical Officers beyond a period of one year, they would be deemed to have employed on regular basis etc.

3. The Central Administrative Tribunal, Principal Bench, New Delhi decided as under on the petitions filed by Dr. (Mrs) Sangita Marang:

"Although the respondents have sought to justify the payment of consolidated monthly pay of Rs: 650/- (plus of course usual allowances as admissible in the pay scale of Rs: 650/- plus NPA) on the grounds, firstly, that the appointment being on adhoc basis for 180 days, the petitioner is entitled to the regular scale of pay of Rs: 700-1300 (revised), secondly, that the petitioner was not a substitute for regular Medical Officers appointed by the Ministry of Health & Family Welfare through UPSC as Delhi Administration/Directorate of Health Services was not the appointing authority in respect of the petitioner in the pay scale of Rs: 700-1300, thirdly, there is no prescribed method of selection of Jr. Medical Officers such as interview, written tests and no medical examination and verification by police or character and antecedents is made and they are appointed strictly on the basis of seniority as per the list furnished by them by the Employment Exchange and lastly, that Jr. Medical Officers (adhoc) are appointed for routine check up of patients given any responsibility of any store/instruments and they only perform and carry lesser responsibilities/duties in comparison to a regular Medical Officer appointed by the Ministry of Health & Family Welfare on regular basis in the pay scale of Rs: 700-1300, we do not think that any of these contentions will justify an unequal treatment in the matter of pay and other service conditions adverted to above. The terms and conditions laid down in the appointment letters issued to the petitioners are surely unfair, arbitrary and harsh. Obviously, the petitioners have accepted the same because they had no choice but to accept the posts or decline them and remain unemployed, the employment position in the country being what it is with over growing spector of unemployment looming large. Hence, we quash the impugned orders in all these applications, and hold that all the Jr. Medical Officers, Gr- II appointed purely on adhoc basis would be entitled to the same pay scale of Rs: 700-1300 and allowances as also the same benefits of leave, maternity leave, increment on completion of one year and other benefits of service conditions as are admissible to the Jr. Medical Officers appointed on regular basis in the pay scale of Rs: 700-1300. Further notwithstanding the break of one or two days in their service as stipulated in their appointment letters etc, they shall be deemed to have continued in service ever since the day of their first appointment. As far as the date

21/9/64

25/9/64

on which they did not actually discharge the duties on account of artificial breaks etc. at the end of every 90 days we direct that the said period would count as duty for continuity of service and the said will be treated as leave to which the applicant will be entitled at par with regular Jr. Medical officers Grade-II. Latest, we direct the respondents to report the cases to the UPSC of all those petitioners who are likely to continue on these posts on adhoc/temporary basis for more than one year as required by proviso (iii) to clause(b) of Regulation 4 of the UPSC (Exemption from the Constitution) Regulation, 1959 dated 1.9.58 adverted to above, for consultation and upon consultation with the UPSC they shall be continued in service in the light of the advice of the UPSC, till regular appointments are made to these posts. Accordingly, we allow all these applications and direct the respondents to implement the above order within three months from the date of the receipt of this order".

Similar judgement was given in the petition filed by Dr. Sunil Kumar Arya.

4. The Central Govt. filed SLPs against the judgements in the above two petitions. The SLP filed against the judgement in Dr. Sunil Kumar Arya's case came up for hearing before the Division Bench of the Hon'ble Supreme Court on 7.9.88. The Court has not admitted the SLP. In view of this, it has been decided that all the Medical Officers appointed on monthly wage (contract) basis would be entitled to the same pay scale and allowances and also the same benefits of leave, maternity leave, increment on completion of one year service and other benefits of service of one year service and other benefits of service conditions as are admissible to the Medical Officers appointed on regular basis in the pay scale of Rs: 700-1300 (revised to Rs: 2200-4000 w.e.f. 1.1.86) from the date(s) of their respective appointments. There will be no one day break in their service and they shall be deemed to have continued in service ever since the day of their first appointment. The days on which they did not actually discharge the duty on account of artificial break etc. at the end of every 90 days, the same will be treated as leave to which the applicant will be entitled at par with regular Medical Officers. Such Medical Officer shall be continued in service till regular appointments are made to these posts. The appointments of such Medical Officers will be outside CMS.

5. However, CAT rejected the petitioners' contention that they should be deemed to have been employed on regular basis. Therefore, their appointments will continue to be treated as adhoc. The cases of such adhoc Medical Officers whose adhoc appointments are likely to continue/have continued for more than one year, should be reported to the Ministry within 10 days for making a reference to the UPSC as per CAT's judgement.

6. The receipt of this communication may please be acknowledged.

Yours faithfully,
Sd/-

(R.N. TEWARI)
DEPUTY SECRETARY TO THE GOVT. OF INDIA

[Handwritten signature]

[Handwritten signature]
25/9/90

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S.O.D.

Keep on read

P-28110

D.O.J.

28/10/91

Before the Central Administrative Tribunal, Allahabad.

Rejoinder Affidavit

In

O.A.No.343 of 1990.

Dr.Rajiv Kumar Saxena. - - - - - Petitioner.

Versus

Union of India & others. - - - - - Respondents.

Rejoinder reply on behalf of Dr.Rajiv
Kumar Saxena S/o Shri Man Mohan
Saroop Saxena, resident of 39, Canton-
ment Road, Lucknow.

Received by
Chakraborty
Arun
25/10/91

(1) That I am the petitioner in the above
noted case and as such I am fully acquainted with
the facts stated below.

(2) That I have read and understood the content
of the counter affidavit filed in the abovenoted case
and am in a position to give a parawise reply.

(3) That para 1 of the counter affidavit need
no reply.

(4) That paras 2 & 3 of the counter affidavit
need no comments.

Date fixed
31.10.1991
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(5) That in reply to the averments made in para 4 of the counter affidavit it is stated that the engagement of the petitioner was not always on short term as alleged in the para under reply. It is further pertinent to mention that the appointment letter dated 1.7.1985 (Annexure-A III to the original petition) was not time bound.

(6) That in reply to the contents of para 5 of the counter affidavit it is stated that as per authoratative judicial pronouncements the policy of keeping doctors on Daily wages with artificial breaks has been struck off.

(7) That in reply to para 6 of the counter affidavit it is stated that it is wrong to allege that the petitioner was working purely on short term vacancies. In fact the petitioner served for more than 2 years between Aug. 1986. & Oct. 1988 in P & T. Dispensary II, Lucknow except for Artificial breaks and leave. The details of petitioners working between June 1985 to March 1989 have already been given in the petition.

(8) That in reply to para 7 of the counter affidavit, it is stated that a bare perusal of annexure-CA-2 (which has also been filed by the

petitioner as Annexure-A-IX) will show that the circular in question makes a provision for keeping such doctors on regular strength. It is further relevant to point out that even after the issuance of the said instructions the petitioner while working as Ad-hoc Medical Officer P & T Dispensary Mahanagar, Lucknow, was directed to work against the leave vacancy of Dr. K.A. Khan w.e.f. 27.3.1989 as is evident from Annexure-A "V" to the petition.

(9) That in reply to para 8 of the counter affidavit it is stated that a perusal of Annexure-CA-3 (which has also been filed by the petitioner as Annexure-A-VIII to the original petition along with covering letter) will show that the only requirement is of one years continuous service and it is absolutely immaterial whether the services rendered were against a regular vacancy or against a leave vacancy. It is also Pertinent to mention that vide transfer order dated 22.8.1986. (Annexure-No.A-IV to the original petition) the petitioner was posted against regular vacancy of Dr. Navneet Kishore and he worked as such for a more than 2 years before being transferred to Mahanagar Dispensary Lucknow.

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Counter
the ~~petition~~ need no comments as the position has
already been explained in para 8 of this Rejoinder.

(11) That the contents of para 10 of the counter affidavit are not admitted. It is further stated that the petitioner has been working against leave vacancy as well against regular vacancy as stated and explained in para 9 of this rejoinder affidavit.

(12) That paras 11 & 12 of the counter affidavit need no comments.

(13) That the averments made in para 13 of the counter affidavit ^{as} they stand are not admitted. The contents of paras 4-4, 4-5, 4-6, 4-7, 4-8, 4-9, 4-10, 4-11, 4-12, 4-13, 4-14, 4-15, 4-16, 4-17 & 4-18 of the original petition are reasserted. It is further pointed out that discrimination cannot be made against the petitioner merely on the ground that he was not working on a particular date, especially when the petitioners representation was pending.

(14) That in reply to para 14 of the counter affidavit it is stated that the references of the

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cases are as under.

O.A.No.716/87- Dr.(Mrs)Sangita Narang & others
Vs. Delhi Administration.

O.A.No.706/87-Dr.Ravinder Kumar Mathur Vs. Delhi
Administration.

O.A.No.677/87 -Dr.Amit Kumar Sharma Vs. Delhi
Administration.

O.A.No.704/87 -Dr.Rakesh Kumar & others. Vs. Delhi
Administration.

O.A.No.1135/87 -Dr.Rakesh Singh & others Vs. Delhi
Administration.

O.A.No.777/87 -Dr.V.K.Chaudhary Vs. Delhi
Administration.

O.A.No.1072/87 Dr.Karmjit Singh Kocchar Vs. Delhi
Administration.

O.A.No.1014/87 Dr.N.Ranjan Laskar Vs. Delhi
Administration.

O.A.No.888/87 Dr.Surinder Pal Vs. Delhi Administ-
ration.

O.A.No.977/87 Dr.Jagdish Chandra Pathak Vs. Delhi
Administration.

O.A.No.1390/87 Dr.Dalvir Singh Vs. Delhi Adminis-
tration. & Dr.Ram Kaur

Date of decision 18.12.87.

It is further stated that a perusal of the covering letter (Annexure-A-VIII to the original petition) will show that the requirement is continuity of service for one year or the likelihood of its continuance. Moreover as stated and explained in para 9 of this rejoinder the petitioner has also been working against regular vacancy for more than 2 years.

Rajiv

(15) That no comments are offered in reply to para 15 in view of the fact that position has been explained in paras 9 & 13 of this rejoinder. It is also note worthy that the answering respondents have not disclosed the alleged date on which the information was sought by the Director General Post & Telegraphs, New Delhi.

(16) That the averments made in para 16 of the counter affidavit are not admitted and the contents of para 4 & 25 of the original petition are reasserted. It is further stated that the petitioner cannot be made ^{to} suffer for the respondents failure to maintain seniority list. Moreover the petitioner cannot be denied the advantage of his seniority on such pretext. It is further stated that the answering respondent have failed to explain the relevance of so called crucial date. Moreover the petitioner can not be discriminated on the pretext that on a particular date he did not happen to be working. There is absolutely no rational in such a policy.

(17) That contents of para 17 of the counter affidavit are denied and the averments made in para 26 of the petition are reasserted.

(18) That the contents of para 18 of the counter affidavit are misconceived and the averments made in para 4-27 of the petition are reasserted.

(19) That in reply to para 19 of the counter affidavit, it is stated that at the relevant time the petitioner was very much working as Ad-hoc Junior Medical Officers and as such he must have been adjusted in any of the vacancies.

(20) That in reply to para 28 of the counter affidavit it is stated that the contents of para 4-29 of the petition are correct and the same are reasserted.

(21) That in reply to contents of para 21 of the counter affidavit, it is stated that the plea taken by the answering respondents is wholly misconceived especially when Ministry of Health has also been arrayed as respondent No.2 in the petition. It is significant to point out that the counter affidavit has been filed on behalf of all respondents (including Union of India) except respondent No.2 which in fact is the main contesting respondent.

Rajinder

(22) That para 22 of the counter affidavit is denied. It is further stated that the petition has merits and is likely to succeed. It is pointed out that the answering respondents have not filed the alleged letter dated 15.1.1990.

(23) That para 23 of the counter affidavit needs no comments.

(24) That para 24 of the petition is denied. and the averments made in para 6 of the petition are reasserted.

(25) That the contents of para 25 of the counter affidavit are denied. Averments made in para 9 of the petition are reasserted.

(26) That the contents of para 26 of the counter affidavit need no reply.

Verification.

I, Dr. R. K. Saxena do hereby verify that contents of paras 1 & 2 of this rejoinder are verified from my personal knowledge, paras 3 to 26 are verified on the basis of record and legal advice.

Place: Alwar

Dr. R. K. Saxena

Signature

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW
.....

No. CAT/LKC/Ju61/ 4303-4384

Dated : 3/3/93

Registration No. 74-38/92 (71) in O.A. 343/90

Dr. Rajiv Kumar Saxena ----- -Applicant

V E R S U S

Union of India & others ----- Respondents

- ① Dr. Rajiv Kumar Saxena, 8/5081 Man Mohan, Surroop
Saxena, Resident of 39 Cantonment Road, Lucknow.
- ② S. K. C. Senha, Advocate, C.A.T. Bar Association,
23-A, Thera hill Road, Allahabad.

"Issue notice for 10-3-93"

Please take notice that the applicant above named has presented an application a copy of _____ thereof is enclosed herewith which has been registered in this Tribunal has fixed _____ day of _____ show-cause as to why the petition be not admitted. Counter may be filed within _____ weeks. Rejoinder, if any, to be ~~FILED~~ filed within _____ weeks thereafter.

If, no appearance is made on your behalf, you pleader of by some on duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence. Given my hand and the seal of the Tribunal this 1st day of March 1993.

Behaudhs
For Dy. Registrar

11/3/93

DINESH CHANDRA SAXENA
ADVOCATE HIGH COURT
COUNSEL FOR RAILWAYS

Phone : 604448

'BEHARI KUTI'

LUKERGANJ

(Opp. Milling Company)

ALLAHABAD-211001

75/II

29-8-1991
Dated.....

Bench Secretary-II
Central Adm. Tribunal
Allahabad.

Ref: O.A No. 343 of 1990
Dr R.K. Saxena v U.O.I

Kindly pray to his
Lordships not to take
up my above noted
case / as I am down
with fever.

D. C. Saxena
Counsel for petitioner