

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 28-10-87

APPLICATION NOS. 717, 797, 811, 825, 839 & 856/87(F)

Applicants

Dr T.M. Srinivasa & 5 Ors

v/s

The DG, M/o Health & Family Welfare,
New Delhi & 3 Ors

To

1. Dr T.M. Srinivasa
No. 918, III Block, 17th Main
Rajajinagar
Bangalore - 560 010
2. Dr M.S. Shallamma
No. 196/Y, 3rd Block
Rajajinagar
Bangalore - 560 010
3. Dr M.C. Lokesh
No. 117/4(4), Nagaraja Lay out,
Bull Temple Road
Chamarajpet
Bangalore - 560 018
4. Dr K.K. Kantharaj
Room No. 7, 4th Block, P.G. Hostel
Ist Main Road, Chamarajpet
Bangalore - 560 018
5. Dr G.V. Natarajan
53, 2nd Block
Thyagarajanagar
Bangalore - 560 028
6. Dr K. Nagaraja
581, 1st Cross
3rd Main Road, R.T. Nagar
Bangalore - 560 032
7. Shri B. Srinivasa Gowda
Advocate
220, 6th Cross, Movisland Lane
Gandhinagar
Bangalore - 560 009
8. Dr M.S. Nagaraja
Advocate
35 (Above Hotel Swagath)
Ist Main, Gandhinagar
Bangalore - 560 009
9. The Director General
Ministry of Health & Family Welfare
Nirman Bhavan
New Delhi - 110 011
10. The Chief Medical Officer
Central Govt. Health Scheme
21/2/2A, 9th Main, III Block West
Jayanagar
Bangalore - 560 011
11. Dr Adisesh
Dispensary - II
Central Govt. Health Scheme
Malleeswaram
Bangalore - 560 003

12. The Secretary
Department of Health
Ministry of Health & Family Welfare
New Delhi - 110 011

13. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER passed by this Tribunal
in the above said applications on 21-10-87

H. A. Rao
SECTION OFFICER
(JUDICIAL)

Encl: As above

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 21ST DAY OF OCTOBER, 1987.

PRESENT:

Hon'ble Mr. Justice K.S.Puttaswamy, .. Vice-Chairman.

And:

Hon'ble Mr. L.H.A.Rego, .. Member(A)

APPLICATIONS NOS. 717, 797, 811, 825, 839 AND 856 OF 1987.

Dr. T.R.Srinivasa,
S/o T.R.Malleshappa,
Aged about 35 years,
No.913, III Block, 17th Main,
Rajajinagar, Bangalore-10. .. Applicant in A.717/87.
(By Sri B.Srinivasa Gowda, Advocate)

Dr. M.S.Shallamma,
D/o M.T.Srinivasa Iyengar,
residing at No.196/Y, 3rd Block,
Rajajinagar, Bangalore-10. .. Applicant in A.797/87
(By Dr. M.S.Nagaraja, Advocate.)

Dr. M.C.Lokesh,
S/o M.S.Channabasappa,
Aged about 34 years,
No.117/4 Nagaraja Lay-out, Bull Temple Road,
Chamarajpet, Bangalore-18. .. Applicant in A.811/87.
(By Sri B.Srinivasa Gowda, Advocate)

Dr. K.K.Kantharaj,
S/olate V.M.Kannanna, Major,
Room No.7, 4th Block, P.G.Hostel,
1st Main Road, Chamarajpet,
Bangalore-560 013. .. Applicant in A.825/87.
(By Sri B.Srinivasa Gowda, Advocate)

Dr. G.V.Natarajan,
S/o G.S.Naik Venkatesh Iyer,
Aged about 34 years,
residing at No.53, 2nd Block,
Thyagarajanagar,
Bangalore-560 028. .. Applicant in A.839/87.
(By Sri B.Srinivasa Gowda, Advocate)

Dr. K.Nagaraja,
S/o K.Venkataramachavachar,
Aged about 31 years,
residing at No.561, I Cross,
3rd Main Road, R.T.Nagar,
Bangalore. .. Applicant in A.856/87.
(By Sri B.Srinivasa Gowda, Advocate)

1. Union of India,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi-II by its
Director General. .. Respondent No.1 in A.No.717
811, 825, 839 and 856 of 1987.

2. Chief Medical Officer,
Central Government Health Scheme,
21/2/2A, 9th Main, III Block
West, Jayanagar, Bangalore-II. Respondent-2 in A.No.717,
811, 825, 839 and 856 of 1987
and Respondent-1 in A.797/87.

3. Dr. Adisesh,
Major, Working at Dispensary-II,
Central Govt. Health scheme,
Malleeswaram,
Bangalore-3. .. Respondent-3 in A.717/87.

4. The Secretary,
Department of Health,
Ministry of Health and Family Welfare,
NEW DELHI-I. .. Respondent-2 in A.797/87.

(By Sri M. Vasudeva Rao, Standing Counsel)

These applications coming on for final hearing, Vice-Chairman
made the following:

O R D E R

As the questions that arise for determination in these cases
are common, we propose to dispose them of by a common order.

2. All the applicants who are qualified medical practitioners
were appointed on different dates in 1956 as Medical Officers ('MOs')
under the Central Government Health Scheme, of a Department of
Government of India ('CGHS'). On the nature and terms of their
appointments, there is controversy. But, on examining the orders,
we find that the applicants had been appointed only for specified
short terms, pending regular appointments to the vacant posts of
MOs which existed in the CGHS dispensaries of Bangalore City.
On different dates, by separate but identical orders, the appointing
authority had terminated the services of the applicants, the validity



of which is challenged by them, in these separate but identical applications made under Section 19 of the Administrative Tribunals Act, 1965.

3. Among others, the applicants have urged, that the posts to which they had been appointed had neither been abolished nor filled in, by regularly recruited candidates and therefore, they were entitled to continue till either of the events occur.

4. In their separate but identical replies, the Union Government and its subordinate authorities whom we will hereafter refer to as respondents, have resisted the applications. They have urged, that the terminations of the applicants were in terms of their appointment orders and there have been regular appointments and postings to the posts held by the applicants.

5. Sriyuths B.Srinivasa Gowda and K.N.Prakash and Dr.M.S.-Naaraja, learned counsel for the applicants contend, that the terminations of the applicants before the abolition of the posts or before regular recruits or transferees were posted against these posts were unjustified and illegal.

6. Sri K.Vasudevarao, learned Additional Central Government Standing Counsel appearing for the respondents, sought to support the terminations on more than one ground.

7. In the impugned orders, the authority had not clearly spelt out, the reasons for terminations. In their replies, the respondents had given various reasons for the same.

8. But, at the hearing, Sri Rao has produced an authenticated copy of Order No.A.22012/59/87-CGH II dated 20-3-1987 issued by Government showing the posting of 4 persons to the CGHS dispensaries



of Bangalore City. Sri Rao states, that the persons posted to Bangalore were all regularly recruited and working in the Department and on this development, the termination orders have necessarily to be upheld.

9. We have no doubt on the correctness of the submission made by Sri Rao. From this it follows that regularly recruited or working officers elsewhere have been posted against the posts held by the applicants who had not been appointed on a regular basis. If that is so, then we cannot interfere with the termination of the applicants at all.

10. Sriyuths Gowda, Prakash and Nagaraja next contend that in terminating the applicants who have been working satisfactorily for some time past, the respondents had not adopted the principle of 'last come, first go' or of terminating the person with the shortest length of service, as in the other Departments of Government.

11. Sri Rao, in refuting the contention, urges, that there was no necessity for issue of any directions to the respondents.

12. In terminations, the general principle recognised and followed is 'last come, first go'. But, that principle cannot be followed in the terminations of the applicants for more than one reason. The first reason for that is that there are breaks in service and the services of the applicants are not continuous. The second reason is that blind and mechanical adherence to the same, may compel the respondents to continue a person despite his performance being unsatisfactory and detrimental to the health of the patients, whom he was required to minister. In these circumstances, it would be proper for the local head of the CBMS to maintain a seniority list on the basis of the actual length of service and follow the principle



of terminating first the services of that person, who has the least total length of service inclusive of broken spells and in that ascending order subject to his power to terminate any one whose continuance is not in public interest.

13. Even before the regularly recruited or transferred persons report for duty there is no justification whatsoever to relieve the locally employed doctors. We are of the view that this submission of the applicants is well-founded.

14. Whenever local appointments have to be made afresh, which would depend on a variety of factors, which we cannot predict, it is needless to mention, that the authorities will make every endeavour to accommodate the applicants who had been appointed earlier and had rendered satisfactory service. We do hope and trust that the authorities will do so.

15. In the light of our above discussion, we make the following orders and directions:

- (a) We uphold the terminations of the applicants and dismiss these applications to that extent.
- (b) We direct the respondents to relieve such of those applicants who have not so far been relieved, only when regularly posted persons report for duty but not before that.
- (c) We direct the respondents to prepare a seniority list of all the applicants on the basis of their total length of service inclusive of broken spells and operate the same, in the course of fresh appointments and/or terminations subject to what we have expressed in para 12 above.

16. Applications are disposed of in the above terms. But, in the circumstances of the cases, we direct the parties to bear their own costs.



-True COPY-

[Signature]
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

Sd/-
no ✓ ✓
VICE-CHAIRMAN (1987)
21/10/1987

Sd/-
MEMBER (A)
21/10/1987