

(C)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 50/92

~~Transferred Application No:~~

DATE OF DECISION 4.1.1993

Dr. V.L.Shinde Petitioner

Shri D.V.Gangal Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Shri J.G.Sawant Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice S.K.Dhaon, Vice Chairman

The Hon'ble Shri M.Y.Priolkar, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(S.K.Dhaon)
Vice Chairman

NS/

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

(P.C.)

OA.NO. 50/92

Dr. Vithal Laxman Shinde

... Applicant

v/s

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice S.K.Dhaon
Hon'ble Member (A) Shri M.Y.Priolkar

Appearance

Shri D.V.Gangal
Advocate
for the Applicant

Shri J.G.Sawant
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 4.1.1993

(PER: S.K.Dhaon, Vice Chairman)

The applicant has approached this Tribunal for the second time.

2. In O.A.No. 226/86 decided on 4.1.1988 this Tribunal set aside the order dated 23.6.1986 whereby the applicant was reverted. This Tribunal directed the respondents, namely, the Union of India, the Administrator, Dadra & Nagar Haveli and the Collector, Dadra & Nagar Haveli to reinstate the applicant as Deputy Chief Medical Officer/Senior Medical Officer on an ad hoc basis till a regular appointment is made. This Tribunal also directed the respondents that they should consider the case of the applicant for regular appointment in accordance with the relevant rules.

3. In pursuance of the directions of this Tribunal, the applicant was promoted as Senior Medical Officer (Group 'A' Gazetted) purely on ad-hoc basis till regular appointment is made. On 31.12.1991 the Collector, Dadra and Nagar Haveli



passed an order reverting the applicant as Medical Officer with immediate effect. This order is being impugned in the present application. A reply has been filed on behalf of the respondents.

4. The burden of the ~~Song~~ in the reply is that in the Union Territory there is no post either of a Senior Medical Officer or of a Deputy Chief Medical Officer. The authorities of the Union Territory wrote to the Govt. of India that one post may be created so as to absorb the applicant in accordance with the directions of this Tribunal. The stand taken by the Union of India is that since the applicant is not a Member of the Central Government Health Scheme cadre and since the post of a Senior Medical Officer and Deputy Chief Medical Officer can be manned only by a Member of such a cadre, the case of the applicant for being appointed either as a Senior Medical Officer or Deputy Chief Medical Officer can-not be considered. However, by a communication dated 8.11.1991 the Under Secretary to the Govt. of India informed the Collector, Administration of Dadra & Nagar Haveli that the Union Administration may consider upgrading the post of Medical Officer (non-CHS) to Senior Medical Officer and accomodate the applicant against the upgraded post so that the matter is finally closed. In the opening paragraph of this communication, it is emphasized that the Administration had earlier been informed that the post of Senior Medical Officer may be got excluded from the Central Health Service in order to regularise the services of the applicant.

5. From a perusal of the two replies filed on behalf of the respondents, it is clear to us that so far the respondents have not taken any steps to consider the case of the applicant for promotion as a Senior Medical Officer in accordance with the suggestion given by the Under Secretary to the Govt. of India

in the aforementioned communication dated 8.11.1991. They shall do so now. They shall act expeditiously and pass a final order within a period of three months from the date of the receipt of a certified copy of our order by the learned counsel appearing on behalf of the respondents. We, however, make it clear that we are merely directing the respondents to consider the case of the applicant for promotion to the upgraded post/excluded post of a Senior Medical Officer on merits^{and} in accordance with law.

6. With these directions this application is disposed of finally but without any orders as to costs.


(M.Y. PRIOLKAR)
MEMBER (A)


(S.K. DHAON)
VICE CHAIRMAN

mrj.