

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

Original Application No: 125/94

Date of Decision: 5.7.1999

Dr. (Mrs.) Priyamvada Vishwanath Kolhatkar  
Applicant.

Shri I.J. Naik.

Advocate for  
Applicant.

Versus

Union of India and others.

Respondent(s)

Shri V.S.Masurkar.

Advocate for  
Respondent(s)

CORAM:

Hon'ble Shri. Justice S.Venkataraman, Vice Chairman

Hon'ble Shri. S.K. Ghosal, Member (A)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?

  
(S. Venkataraman)  
Vice Chairman

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH 'GULESTAN' BUILDING NO:6  
PRESCOT ROAD, MUMBAI:1

Original Application No. 125/94

Monday the 5th day of July 1999.

CORAM: Hon'ble Shri Justice S.Venkataraman, Vice Chairman  
Hon'ble Shri S.K. Ghosal, Member (A).

Dr. (Mrs) Priyamvada Vishwanath  
Kolhatkar, M.S. D.C.E.H.,  
C/o I.J. Naik, Advocate  
Parkota Street,  
P.O. Daman.

... Applicant.

By Advocate Shri I.J. Naik.

V/s.

The Administrator  
Union Territory of Daman & Diu  
Administrator's Secretariat,  
Fort Area  
P.O. Moti Daman.

The Union Public Service  
Commission through  
The Secretary  
'Dholpur House'  
Shah Jahan Road,  
New Delhi.

Union of India through  
Secretary,  
Ministry of Home Affairs,  
Central Secretariat,  
North Block,  
New Delhi.

... Respondents.

By Advocate Shri V.S. Masurkar.

ORDER (ORAL)

¶ Per Shri Justice S.Venkataraman, Vice Chairman ¶

Respondent No.1 by a notification in News paper  
called for applications from qualified candidates for  
appointment as Eye Surgen (Specialist). The applicant  
applied for the post and the local selection committee  
after interview selected her to the above post.

...2...

However she was appointed on adhoc basis by order dated 2.4.1977. It is not disputed that from that date the applicant has continued to hold the post of Eye Surgeon(Specialist) till now. But according to the respondents though respondent No.1 recommended her case for regularisation to respondent No.2(UPSC) respondent No.2 did not agree for the same and wanted <sup>her</sup> the post should be filled by deputation. When the applicant was the only applicant for deputation, respondent No.2 did not agree to her application. Thereafter respondent No.2 insisted that post and another post being advertised for direct recruit<sup>ment</sup>. It is <sup>at</sup> ~~on~~ that stage the applicant who had already put in 17 years of service has filed this application. The applicant has sought for a direction to respondent No.2 to regularise the appointment of the applicant in the post of Senior Ophthalmic Surgeon and not fill up one post by direct recruitment.

2. The respondents have stated in their reply that because the recruitment rules <sup>were</sup> ~~was~~ still to be finalised the applicant was appointed on adhoc basis. Respondent No.1 has no objection for applicant's regularisation but the UPSC has not accepted the same.

3. It is no doubt ~~true~~ <sup>ment</sup> that adhoc appointee <sup>on</sup> does not confer any right <sup>to</sup> ~~to~~ the appointment <sup>ment</sup> ~~ment~~ to hold the post. But when a person appointed to a post on adhoc

basis continues for a long period the question is whether the services of such person <sup>could</sup> be regularised or not? In the case of State of Haryana and Others V/s. Piara Singh and others 1992(3) SLJ 34 the Apex Court has held that if for any reason an adhoc or temporary employee is continued for fairly long spell the authority must consider the case for regularisation provided the employee is eligible and qualified according to rules and the services record is satisfactory, <sup>As</sup> also his appointment is not against the reservation policy. In the case of Dr. A.K. Jain and others V/s. Union of India and others 1988 SCC (L&S) 222 the Assistant Medical Officers who had been appointed on adhoc basis and who <sup>have</sup> ~~was~~ continued for a considerable long time had sought for regularisation. In that case the Supreme Court gave a direction that all the Doctors appointed as Assistant Medical Officer on adhoc basis <sup>who</sup> ~~as per~~ 1984 shall be regularised in consultation with the UPSC on the evaluation of <sup>their</sup> ~~other~~ work and conduct on the basis of their confidential reports.


4. This is a case where the respondent No.1 after notification held a selection and appointed the applicant as Eye Surgeon (Specialist) as long as back in 1977. The applicant has already put in 22 years of service. It is not disputed that she is left with only one year of service. <sup>As</sup> per the previous rules she would have retired last year. In these circumstances if her services are not regularised even now it would be a <sup>violation</sup> ~~violation~~ of justice. It is a fit case where the

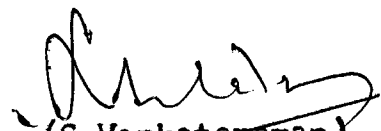
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UPSC should consider her regularisation as <sup>an</sup> exceptional case . Admittedly ~~as~~ admitted by respondent No.1 ~~that~~ there is no doubt <sup>about</sup> ~~of~~ her eligibility to hold the post.

5. For the above reason we allow this application and direct respondent No.1 to regularise the applicant's service in consultation with respondent No.2.

Respondent No.2 is directed to take into consideration the various facts mentioned above while considering her case for regularisation giving relaxation to requirement for direct recruitment. This shall be done within a period of six months from the date of receipt of this order.

  
(S.K. Ghosal)  
Member(A)

  
(S. Venkataraman)  
Vice Chairman

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