

(41)

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: AT HYDERABAD.

No. 238/89.

Date of Decision:

XXXXXX

Smt. S.Padmavathi

Petitioner.

Shri V.Parabrahma Sastry

Advocate for
the Petitioner(s)

Versus

The Postmaster-General, A.P.Circle, Vijaywada-2

Respondent.

& 3 others

Shri N.Bhaskara Rao, Addl. CGSC

Advocate for
the Respondent
(s)

COR. M:

THE HON'BLE MR. R.Balasubramanian : Member(A)

THE HON'BLE MR. C.J.Roy : Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgment ? *yes*
2. To be referred to the Reporters or not ? *yes*
3. whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on Columns 1,2,4 (To be submitted to Hon'ble Vice-Chairman where he is not on the Bench.) *No*

✓
HRBS
M(A).

✓
HCJR
M(J).

42

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.238/89

MA No 718192

S.Padmavathi

Date of Judgement 21.7.1992

.. Applicant

Vs.

1. The Postmaster-General,
A.P.Circle,
Vijaywada-2.
2. The Director of Postal
Services,
Vijaywada.
3. The Sr. Medical Officer,
P&T Dispensary,
Amaravathi Road, Guntur.
4. V.Venkateswara Gupta. .. Respondents

Counsel for the Applicant :: Shri V.Parabrahma Sastry

Counsel for the Respondents:: Shri N.Bhaskara Rao, Addl. CGSC

~~Counsel for the Respondents No.4~~ Shri. P. Chopalde

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

I Judgement as per Hon'ble Shri R.Balasubramanian, Member(A) I

This application has been filed by Smt. S.Padmavathi under section 19 of the Administrative Tribunals Act, 1985 against the Postmaster-General, A.P.Circle, Vijaywada-2 & 3 others. Shri V.Venkateswara Gupta, Respondent No.4 is a private respondent. The prayer herein is for a direction to the respondents to continue her as a Pharmacist and also to regularise her in that capacity. MA 718192 for restoration is allowed.

2. The applicant is stated to be in possession of all the qualifications required for the job as a Pharmacist. She has been working as a daily wage Pharmacist in the P&T Guntur Dispensary from 3.2.83 to 26.10.85 in leave vacancies with some breaks in between. Again, from 30.10.85 to 17.10.86 she has worked on a daily wage basis. She was being paid ^{at the minimum of the scale} ~~at the minimum of the scale~~ at the ^{daily} rate of 1/30th of the total emoluments, excluding certain allowances at the minimum of the pay scale of a

Pharmacist. It is stated that she was also selected for the post of Pharmacist by a Committee on 29.10.85. While she was expecting to be appointed regularly, the respondents posted one Shri V.Venkateswara Gupta, Respondent No.4 as the Pharmacist in the P&T Dispensary, Guntur, displacing the applicant. Aggrieved, the applicant has filed this O.A. with the abovesaid prayer.

3. The respondents have filed a counter affidavit and oppose the application. It is their case that she is not a regular Pharmacist and was only engaged on a daily wage basis on ~~based on a~~ short duty and a panel prepared for this purpose. This is in accordance with the D.G.P&T letter No.8-20/84-Med.I/NCQ dt. 30.8.84 according to which qualified persons who fulfil the prescribed norms for direct recruits and whose names are sponsored by the local Employment Exchange are selected as Pharmacists on a daily wage basis on short duty and a panel of such persons be prepared. The remuneration for the services rendered was also laid down in that letter and it is not a regular scale as applicable to a Pharmacist. Shri V.Venkateswara Gupta, Respondent No.4 was declared surplus from the Office of the Officer on Special Duty, Dept. of Coal, Coal Mines Labour Welfare Organisation, Dhanbad and he was borne on the surplus pool. Hence he was ordered to fill up this regular vacancy at Guntur, resulting in displacement of the applicant and it is prayed that the application be dismissed.

4. At the time of admitting the application, this Bench had passed an interim order directing the respondents to engage the applicant on casual basis in the existing/future vacancies of Pharmacist in preference to other casual employees.

5. We have examined the case and heard the rival sides. We paid particular attention to the contention of the learned counsel for the applicant that the applicant was once selected. He had appended a copy of the memo at material paper Page 7 of the application. It indicates that the Selection Committee has empanelled the applicant only as a daily wager at 1/30th

of the minimum of the emoluments applicable to the cadre of Pharmacist. The applicant is one among the six panelists and it was indicated that the selection is purely temporary for the limited purpose of engaging them only in leave vacancies. It was also stated therein that the candidates shall not have any right for claiming regular absorption in the cadre of regular Pharmacists that may arise in future. In the course of the hearing, the learned counsel for the applicant cited two decisions in AIR 1986 (SC) 132 and AIR 1987 (SC) 2342. On a careful study of these two decisions it is seen that the cases do not fully apply to the applicant even though she has been engaged for a long time. The former relates to non-observance of the provisions of the I.D. Act which is not the question raised here. If such a question is to be raised, it should be before the appropriate forum. In the second case referred to, Their Lordships gave a direction to the respondents (P&T Department) that they should prepare a scheme on a rational basis for absorbing as far as possible the casual labourers who have been continuously working for more than one year in the P&T Department. That was a case where a large number of casual labourers were working for long durations and they were agitated for absorption. But the case before us is one where a very small number of persons had been specifically engaged for leave vacancies. As against the case of the P&T Department where the casual force was required to continue to do the work, such is not the case here where the regular incumbent who proceeded on leave returns to the post. Therefore, we hold that the decisions cited are not fully applicable to this case. We were told across the bar that even today she is continuing on this basis. While on the one hand she has no right to claim a regular post, particularly the one now occupied by Respondent No. 4 who had been rehabilitated from the surplus pool, on the other hand the fact remains that she has worked for long durations although on a daily wage basis. Under these circumstances,

we dispose of the application with a direction to the respondents that they continue to engage her as Pharmacist as and when leave vacancies arise on the same terms and conditions as they had been doing all this time. In such engagement, she may be given preference over others in accordance with the length of service that she had put in. There is no order as to costs. The O.A. is disposed of accordingly.

R.Balasubramanian

(R.Balasubramanian)
Member(A).

usury
(C.J.Roy)
Member(J).

Vb

Dated: 21st July, 1992.

8-27-92
Deputy Registrar(Judl.)

Copy to:-

1. The Postmaster-General, A.P.Circle, Vijayawada-2.
2. The Director of Postal Services, Vijayawada.
3. The Sr. Medical Officer, P&T Dispensary, Amaravathi road, Guntur.
4. One copy to Sri. V.Parabrahma Sastry, advocate, 16-11-17/C Saleemnagar colony, New Malakpet, Hyd.
5. One copy to Sri. N.Bhaskara Rao, Addl. CGSC, CAT, Hyd.
6. One copy to Hon'ble Mr. C.J.Roy, Judicial Member, CAT, Hyd.
7. One copy to Deputy Registrar(Judl.), CAT, Hyd.
8. Copy to reporters as per standard list of CAT, Hyd.
9. One ~~copy~~ ^{copy} to Sri. P. Chipli Das, Advocate, 16-11-405/88, SBI, opp. Colony, Mortarambagh, Hyderabad-38.
10. Spare copy.

Rsm/-

With thanks
22/7/92

W
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH.

THE HON'BLE MR.

AND

THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)

AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY : MEMBER(J)

AND

THE HON'BLE MR.C.J. ROY : MEMBER(J)

Dated: 21/7/1992

Typing

ORDER / JUDGMENT

O.A./C.A./M.A. No. 71892

in

O.A.No. 238/89

T.A.No.

(W.P.No. _____)

Admitted and interim directions issued

Allowed

Disposed of with directions

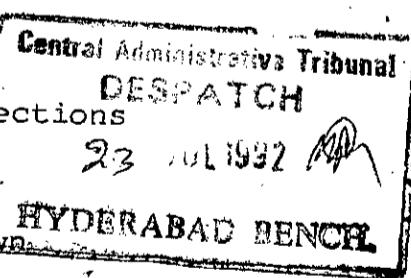
Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A.Ordered/Rejected.

No order as to costs.



pvm.

29/7/92

Sent to ~~Opposite Sealer~~
with ~~18~~ ^{certified} Eighteen copies of this O.A.

23/7/92