

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

No. O.A.374 of 1999.

DATE OF ORDER : 23.1.2001.

BETWEEN :

Dr.B.Lakshmi Rajyam W/o Dr.B.Narasimham,
Aged about 50 years,
Working as Chief Medical Officer (I/C)(NFSC),
Dispensary No.7, F.D.-III, Malakpet, Hyderabad.

...Applicant

Vs.

1. Union of India through Secretary,
Ministry of Health & Family Welfare,
Department of Health, New Delhi.
2. The Director General, Health Services,
Nirman Bhawan, Department of Health,
New Delhi.
3. The Additional Director, C.G.H.S.,
Kendriya Swasth Bhawan,
Bugumpet, Hyderabad.
4. Union Public Service Commission,
Dholpur House, New Delhi through its Secretary.
5. Dr.A.Lakshmikanthamma W/o M.V.Subbaiah,
Aged about 48 years,
Chief Medical Officer, NFSC,
Hyderabad.

...Respondents

Counsel for applicant : Mr.N.Ram Mohan Rao.

Counsel for respondents : Ms.Shakti.

C O R A M :

1. The Hon'ble Mr.Justice V.Raja Gopala Reddy,
Vice-Chairman.
2. The Hon'ble Mr.M.V.Natarajan, Member (A).

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O R D E R

Justice V.Raja Gopala Reddy, Vice-Chairman.

Heard 1d counsel for the applicant and the respondents.

2. The only grievance of the applicant in this case is that although she has been appointed through direct recruitment on regular basis, as Medical Officer by the U.P.S.C., she has been shown as junior to a regularised doctor i.e. respondent no.5 in this O.A., in the list prepared for giving Inchargechip in the dispensaries in the twin cities. It is the contention of the 1d. counsel for the applicant that the applicant being senior to respondent no.5, Dr.A.Lakshmikanthamma, ^{she} should be shown above her in the Inchargechip list also.

3. None appears on behalf of respondent no.5.

4. Ms.Shakti, 1d.counsel appearing for the official respondents, however, submits that the applicant has been provided the Inchargechip in the Malakpet Dispensary.

5. We have given careful consideration to the contentions raised on either side. We have also perused the seniority list of 1974 batch of direct recruit Medical Officers. The name of respondent no.5 does not find a place in the said list.

6. It is not in dispute that respondent no.5 has been regularised in pursuance of the judgment of the Supreme Court in Civil Appeal No.14747 of 1996 dated 27th February, 1998 (UOI & Anr. vs. Dr.Akhilesh Chandra Agarwal & Ors.).

7. The Supreme Court in the above judgment has only directed that the regular ~~and appointed~~ doctors will be appointed only to supernumerary posts and their promotion to the post of Senior Medical Officer, Chief Medical Officer, and further promotion will be at par with the

the regularly recruited doctor who is immediately junior to the concerned regularised doctor on the basis of their respective dates of appointment. To avoid conflict, it was further directed that the post to which the regularised doctor would be promoted, should only be a supernumerary post and for that purpose supernumerary posts should be created by the Govt. as would be necessary to give effect to the directions of the Supreme Court. It was also made clear that no promotions would be given to the regularised doctors in the existing vacancies which would go only to the regularly appointed doctors.

8. It is, therefore, clear from a perusal of the judgment that the regularised doctor would be given benefit either for promotion or for Incharge ship only after the regularly appointed Medical Officer was given promotion. The same principle, in our view, should be followed for giving the Incharge ship of any dispensary. The applicant being a Senior Medical Officer having being regularly appointed, cannot be shown as junior to the regularised doctors in the impugned list. The applicant, however, has been shown in the impugned list as junior to respondent no.5 who is a regularised Medical Officer. It is true that the impugned list has been prepared in accordance with the interim order passed by this Tribunal in O.A.1543 of 1998 dated 11.12.1998. But the O.A. was disposed of subsequently stating that no further orders need be passed in view of the above interim order. As it appears that this interim order is contrary to the directions given by the Supreme Court in the above judgment, and the applicant was not a party to the above O.A. and the point raised in the above O.A. was not finally determined, the order in the above O.A. cannot be binding upon the applicant.

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9. In view of the above, the O.A. succeeds and the impugned list is directed to be modified showing the applicant as senior to respondent no.5. The applicant consequently is entitled for the Incharge ship in the 13th Dispensary in the twin cities.

10. This O.A. is accordingly allowed without any order as to costs.

~~K. Natarajan~~
(M.V.Natarajan)
Member(A)

~~Chairman~~
(V.Raja Gopala Reddy)
Vice-Chairman

DATED THE 23rd JANUARY, 2001.

DICTATED IN OPEN COURT

r.s.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH: HYDERABAD

COPY TO

1ST AND 2ND COURT

1. HVRCGJ

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

2. HON'BLE MEMBER (JUDG)

3. HON'BLE MEMBER (ADMIN)

THE HON'BLE MR. JUSTICE V. RAJA GOPAL REDDY
VICE-CH. JUDGE

4. D.R. (ADMIN)

THE HON'BLE MR. S. JAI PARMESHWAR
MEMBER (JUDG)

5. SPARE

THE HON'BLE MR. N.V. NATARAJAN
MEMBER (ADMIN)

6. ADV. CATE

7. STANDING COUNSEL

DATE OF ORDER: 23/1/2001

RA/R/CP.NO:

IN

CA. NO. : 374/20

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

C.R. CLOSED

C.R. CLOSED

DISMISSED WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

ORDER AS TO COSTS

9 copies

केन्द्रीय प्रशासनिक अधिकार ट्रिब्यूनल
Central Administrative Tribunal
प्रबंध / DESPATCH

- 5 FEB 2001

हैदराबाद आवासीय
HYDERABAD BENCH

WAP
No. 8981