

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 287 of 2002

Jabalpur, this the 4th day of April 2003.

Hon'ble Mr. R.K. Upadhyaya - Member (Admnv.)
Hon'ble Mr. A.K. Bhatnagar - Member (Judicial)

Amit Kumar Tiwari
Son of Shri R.A. Tiwari
Pharmacist
In P&T Dispensary,
Post and Telegraph Hospital
No. 1 Jabalpur,
R/o Shanti Nagar, Damoh
Naka, Jabalpur (MP)

- APPLICANT

(By Advocate - Shri S.D. Gupta)

VERSUS

1. Union of India
Through Secretary,
Ministry of Postal and
Telecommunication
Department, New Delhi.
2. Senior Superintendent of
Post Office,
Jabalpur Division, Jabalpur
3. Chief Medical Officer
(Incharge)
P&T Dispensary No. 1
Jabalpur,
Distt. Jabalpur (MP)

- RESPONDENTS

(By Advocate - Shri S.A Dharmadhikari)

O R D E R (ORAL)

By R.K.Upadhyaya, Member(Admnv.):

This application has been filed seeking a direction to the respondent no.2 Senior Superintendent of Post Offices, Jabalpur Division, Jabalpur and respondent no.3 Chief Medical Officer, P&T Dispensary No.1, Jabalpur, not to remove the applicant from service.

2. It is stated by the applicant that his name was sponsored by the Employment Exchange for the post of Pharmacist in P&T Dispensary No.1, Jabalpur. After appearing in the interview, the applicant was found fit for engagement to the post of Pharmacist and he joined his service as per appointment letter dated 20.2.1997 (Annexure-A-2). The applicant claims that on 5.4.2002 he

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has been told that he was not to be allowed to continue in service, but no order in writing has been given to him in this regard. It is also alleged that respondent no.3 is not permitting the applicant to continue in service. The learned counsel stated that in view of these facts, this O.A. has been filed claiming the aforesaid relief.

3. The respondents in their reply have stated that the applicant was given appointment as a Pharmacist on purely temporary basis on daily wages, ^{or} as there was no sanctioned post, ^{or} He was initially appointed for 89 days and thereafter from time to time. It is stated by the respondents that in view of circular dated 28.2.2002 (Annexure-R-1), the services of the applicant cannot be continued.

4. The learned counsel of both the parties have stated that a similar matter came up for consideration before this Tribunal in the case of Neeraj Tiwari Vs. Union of India & others, O.A.No.298 of 2002, in which this Tribunal vide order dated 31.3.2002 has passed the following order:-

"5. The initial engagement of the applicant was not on regular basis but was on daily wages although he continued for five years. As the due procedure of selection was not undertaken before his engagement, as such he was not appointed in accordance with rules. The aforesaid continuance for five years would not bestow him a right to be regularised. Moreover, in a Group-C post there cannot be a question of regularisation but the post is to be filled up as per the selection to be undertaken by the respondents. However, having regard to the continuance of the applicant for five long years, in case he applies in the event a post is advertised by the respondents, he would be considered for age relaxation. With this observation, the claim of the applicant for reinstatement and regularisation fails. The O.A. is dismissed. No costs".

5. Since the facts and circumstances of the present case are similar to the case of Neeraj Tiwari (supra), the order passed in the case of Neeraj Tiwari will apply

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mutatis mutandis to this case also. We order accordingly.
This O.A. is dismissed without any order as to costs.

(A.K.Bhatnagar)
Member(Judicial)

(R.K.Upadhyaya)
Member(Admnv.)

rkv.

पृष्ठकेन सं ओ/न्या.....जबलपुर, दि.....
पतिलिपि
(1) सचिव, उच्च न्यायालय, जबलपुर
(2) आदेशक श्री/श्रीमतीके कार्यालय
(3) प्रत्यक्षी श्री/श्रीमतीके कार्यालय
(4) बांयपाल, के.ए.ओ., जबलपुर
सूचना एवं आवश्यक कार्यवाही

उप निदेश

S. D. Gupta Adve
SA Sharmadikhan Adve

8/4/03

Issued
on 9.4.03
BS