

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 893 of 2002

Jabalpur, this the 25th day of March 2003.

Hon'ble Mr. Shanker Raju - Member (Judicial)
Hon'ble Mr. R.K. Upadhyaya - Member (Admnv.)

1. Dr. Smt. Neelam Molhotra,
aged about 36 years.
W/o Dr. R.K. Molhotra
R/o F-9, Doctors Colony,
Basantpur, Rajnandgaon, (C.G.)
2. Dr.(Ku) R.K. Borwa,
aged about 34 years,
D/o Shri C. Barwar
R/o Mahalaxmi Bhawan,
Subedar Wada, Laxmipura
Sagar (M.P.)
3. Dr. D.N. Prasad,
aged about 38 years,
son of Shri R.K. Prasad.
R/o 18-D, Sector-II, Street-II,
Chilai, (C.G.).
4. Dr. H. A. Soman,
aged about 35 years,
S/o A.V. Soman
R/o Mahalaxmi Bhavan
Subedar Wada, Laxmipura
Sagar (M.P.)
5. Dr. (Smt.) Anuradha Tiwari,
aged about 33 years, W/o
Dr. Sanjay Tiwari,
R/o 1047-A Vijay Nagar,
Krishi Upaj Mandi, Jabalpur
(Madhya Pradesh)
6. Dr. S.K. Gongele.
Aged about 34 years,
S/o V.K. Gongele,
R/o 61, professor Colony.
Omoh, District-Damoh.
(Madhya Pradesh)
7. Dr. (Smt.) Madhuri Ramateke
Aged about 36 years, wife of
Dr. K.K. Ramteke, R/o Behind sub
Post Office, Mohan Nagar, Durg
(Chattisgarh)

APPLICANTS

(By Advocate- Shri R.K.Gupta)

VERSUS

Cont..2/-

1. Union of India,
Through-Secretary,
Ministry of Home Affairs,
New Delhi.
2. The Secretary,
Ministry of Labour
New Delhi.
3. Commissioner,
Welfare & Cess, 797,
Shantikunj, South Civil
Line. Jabalpur, (Madhya Pradesh).

RESPONDENTS

(By Advocate - Shri P. Shankaran on behalf of
Shri B. da. Silva)

ORDER (Oral)

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

The applicants have filed this Original Application seeking a direction to the respondents to regularise their services and to give them all benefits to which they are entitled after regularisation.

2. It is claimed by the applicants that they were appointed as Medical Officers on adhoc basis and their services have been continued in the pay scale of Rs. 2200-4000. All these 7 applicants were appointed on adhoc basis between the period June, 1995 and October, 1998. The claim of the applicants is that similar adhoc appointments of Medical Officers were made in Defence Establishment like Central Industrial Security Force. Such adhoc appointments were continued from time to time. Therefore, this Tribunal in several orders directed the respondents to regularise the services of the adhoc doctors. Reliance has been placed by the applicants on the orders of this Tribunal in O.A. No. 944 of 1997, Dr. Lalit Kumar Pandey & 3 others Vs. Union of India & others decided on 23.8.1999, and O.A. No. 474 of 1998, Dr. Madan Mohan Singh and another Vs. Union of India and others decided on 10.4.2002. In the case of Dr. Madan Mohan Singh (supra)

Contd.....3/-

Ch. B. Pandey

the Tribunal has issued the following directions:-

"Having rendered several years service, the applicants have acquired some rights of employment. The respondents are directed to decide their regularisation within a period of six months from the date of receipt of this order in consultation with UPSC. The services of the applicants may not be terminated till a decision is finally taken for their regularisation as per direction mentioned earlier. The Union Public Service Commission will be at liberty to determine the method by which they consider the regularisation just and proper on the facts of this case."

3. The respondents in their reply have stated that the applicants were appointed on adhoc basis on the post of Medical Officer till the posts are filled by regular appointment and their appointment orders clearly stipulate that their appointment is purely on adhoc basis. In pursuance to the said appointment orders, the applicants gave an undertaking that they will not claim any regularisation on the post. A copy of the appointment order and the undertaking has been filed as Annexures R-1 & R-2 respectively. According to the respondents, the reliance placed by the applicants on the orders of this Tribunal is uncalled for as those orders are judgments in personam and not judgments in rem, therefore, the applicants cannot claim regularisation on the basis of those orders.

3.1 The respondents have further filed a counter reply dated 4.3.2003 in which they have stated that claimants cannot be granted the benefit of regularisation contrary to statutory recruitment rules. It is also stated by the respondents that the appointment of the applicants has been on contract basis resulting in inter-mittent breaks in service on termination of contract due to lapse of the prescribed time. The respondents contend that the reliefs claimed in this application are against the provisions contained in the Recruitment Rules, therefore, this application deserves to be dismissed.

4. After hearing the learned counsel of the parties we are of the view that the benefits accorded to the similarly placed doctors vide our order dated 10.4.2002 in

20/5/2003

the case of Dr. Madan Mohan Singh (supra) extracted in para 2 above, should be extended to the present applicants also as the facts are similar. In this view of the matter this O.A. is disposed of with a direction to the respondents to grant the similar benefit to the present applicants as was granted to the applicant in the case of Dr. Madan Mohan Singh (supra) and the order passed by this Tribunal in the case of Dr. Madan Mohan Singh (supra) shall be mutatis mutandis applicable to the present applicants as well. In the facts and circumstances of the case, the parties are directed to bear their own costs.

(Signature)
(R.K. Upadhyaya)
Member (Adminv.)

(Signature)
(Shanker Raju)
Member (Judicial)

rkv.

पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....

पदिलिपि अन्तर्गत :-

- (1) ~~सर्वोच्च न्यायालय, दिल्ली~~
- (2) ~~उच्च न्यायालय, जबलपुर~~
- (3) ~~उच्च न्यायालय, कोटा~~
- (4) ~~उच्च न्यायालय, जयपुर~~

सूचना एवं आवश्यक कार्यवाही हेतु

उप निदेश

R.K. Gupta Adv
B. Chakraborty - Adv

(Signature)
1.4.03

Issued
on 1-4-03
BS