

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 658 of 1999

Jabalpur, this the 19th day of September, 2003.

Hon'ble Mr. Anand Kumar Bhatt, Administrative Member
Hon'ble Mr. G. Shanthappa, Judicial Member

Atulya Bhagat, aged 26 yrs., S/o Mr. V.D.
Bhagat, Short Term Medical Officer,
Ordnance Factory, Katni R/o Premadhar
Building, House No. 3145, Behind St.
Joseph School, Ranjhi, Jabalpur (MP)

APPLICANT

(By Advocate - Shri Rajneesh Gupta holding brief of
Shri R.K. Gupta)

VERSUS

1. The Union of India, Ministry of
Defence, through its Secretary,
New Delhi.
2. The Chairman, Ordnance Factory Board,
10-A, Auckland Road, Calcutta 700001
3. The Director General, Ordnance Factory
Board, 10-A Auckland Road, Calcutta.
4. Teh General Manager, Ordnance
Factory, Katni.

RESPONDENTS

(By Advocate - Shri S. Akhtar holding brief of
Shri S.C. Sharma)

O R D E R

By G. Shanthappa, Judicial Member -

The applicant has filed this application for
seeking the following reliefs :-

- (1) Give benefits of the judgment of the Hon'ble
Supreme Court reported in 1987 (Supp) SCC497)
in the case of Dr. A.K. Jain V/s UOI and the
order dtd. 7/2/96 passed in O.A. No. 881/90
as also 563/94 by this Hon'ble Tribunal.
- (2) To direct the respondents to regularised the
services of applicant by giving him all the
benefits of his past services, as Short
Term Medical Officer, by giving him all the
benefits attached with the Regularly
appointed Medical Officer.



2. The applicant was appointed and posted as Short Term Medical Officer (in shro 'STMO) by the 3rd. respondent vide order dated 2.5.98 (Annexure-A-1) at Ordnance Factory, Katni w.e.f. 6.3.98 for a certain period. Then, subsequently his services were continued from time to time as per the subsequent orders of appointment till the date of filing the application. The applicant has obtained an interim order of status-quo on 4.11.99. Some artificial breaks were given to him and he was reappointed from time to time and he is still working as STMO. When the respondents had not considered the regularisation of service of the applicant, he had approached this Tribunal for direction to regularise the service of the applicant. He has also mentioned that the benefit of the judgement of the Hon'ble Supreme Court reported in 1987 (supp) SCC 497 Dr. A.K. Jain V/s UOI and Ors. and also the judgment of this Tribunal in OA No. 881/90 and OA No. 747/91 connected with the OA No. 346/96. The applicant has also produced a copies of the judgments of this Tribunal in OA No. 474/98 dated 10.4.2002 and OA No. 918/96 dated 10.9.99.

4. When the applicant was serving under the fourth respondent he had submitted a representation dated 4.9.99 requesting the authority to regularise his services. The second respondent has passed an order date 12.10.99 rejecting the request of the applicant. The second respondent has assigned the reasons that the appointment was on purely ad-hoc basis for a period of not exceeding 6 months and also the applicant would not have any claim for preferential treatment or right for selection to a regular post on account of his appointment as STMO. The post of Asstt. Medical Officer in IOFHS



is a Group 'A' Gazetted post and the recruitment to the said post is done through a combined medical services examination conducted by the UPSC each year. The maximum age limit for appearing in said examination has now been raised to 32 years. As on 12.10.99 the age of the applicant was 27 years and 8 months. It was further stated in order dtd. 12.10.99 that the judgments submitted by the applicant are applicable to the applicants in the relevant cases and those cannot be applied to the case of the present applicant automatically. It is further observed that, if the applicant wants to become AMO, he has to apply for CMSE in response to UPSC advertisement as and when the same is published in the employment news.

5. Per contra the respondents have filed their reply, contending that the case of the applicant is not covered by the judgment of this Tribunal cited by him. The relevant portion of the statement is as follows :-

8.....However it is submitted that the applicant was informed that the judgment of Hon. Tribunal cited by him were not applicable in his case and the same would not be applicable to him automatically. He was further informed that if he was interested to become A.M.O., he should apply for C.M.S.E. in response to the UPSC advertisement as and when the same is published in the employment news and newspapers and appear in the examination and selection process conducted by the UPSC for recruitment to the post of A.M.O. in Indian Ordnance Factories.

9..... As far as the regularisation of services is concerned, the STMO has to qualify through UPSC. even as per Hon'ble Tribunal's judgment in the case filed by Dr. (Mrs.) K.R.R. rao and P.K. Sancheti (both STMOs) it has been held that the services of STMO can be terminated on posting of a Regular Medical Officer.



6. We have ^{heard the learned advocates of the parties and} carefully considered the facts of this case as well as the pleadings and orders of the Tribunal.

7. After perusal of the pleadings and the supporting orders of this Tribunal. We are of the considered view that the case of the applicant is also on par with the facts of the case of the judgments in OA Nos 474/98 and OA No. 918/96

8. In our opinion, in view of the decision of the Hon'ble Supreme Court as well as orders of this Tribunal mentioned above, it will be fair and reasonable to direct the respondents to consider the case of the applicant in the same terms as directed by the Tribunal in OAs Nos. 474/98 & 944/97. Prima facie it is not disputed that there is no vacant post, where applicant is working, and he is eligible for regularisation for the post in which he is working since 1999 and as has performed several years of service, the applicant has acquired some rights of the employment. Hence the respondents are directed to decide the case of the applicant for regularisation by considering the directions in the OA No. 474/98 decided on 10.4.2002 and OA No. 944/97 decided on 23.8.99. The respondents are directed to decide the case of the applicant for regularisation with a period of 6 months from the date of receipt of this order, in consultation with UPSC and the service of the applicant may not be ^{terminated} ~~terminated~~ till the decision is finally taken for his regularisation as per direction mentioned earlier. The UPSC will be at liberty to determine, method by which they consider the regularisation just and proper on the facts of this case.



9. In the result the application is disposed of with a direction as mentioned above. No order as to costs.

G. Shanthappa
(G. Shanthappa)
Judicial Member

Anand Kumar Bhatt
(Anand Kumar Bhatt)
Administrative Member

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

व तिरिपि आने धित :-

- (1) अतिरिक्त न्यायाधीश का एडवोकेट जनरल जबलपुर
- (2) अतिरिक्त न्यायाधीश का एडवोकेट जनरल जबलपुर
- (3) अतिरिक्त न्यायाधीश का एडवोकेट जनरल जबलपुर
- (4) अतिरिक्त न्यायाधीश का एडवोकेट जनरल जबलपुर

सूचना एवं आवश्यक कार्यवाही हेतु

R. K. Gupta, Addl
S. C. Sharma Addl

Shantappa
उप न्यायाधीश 26/9/03

True
on
29/9/03