

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 3489/2013

New Delhi this the 6th day of October, 2015

Hon'ble Mr. Justice Syed Rafat Alam, Chairman
Hon'ble Mr. P.K. Basu, Member (A)

Dr. Ganesh Lal
S/o Shri Kanhaiya Lal
Aged about 35 years,
R/o House No. 8/4/15, Jharkhandi
Rekabganj, Faizabad (UP)

... Applicant

(Through Shri T.D. Yadav, Advocate)

Versus

1. Govt. of NCT of Delhi
Through Chief Secretary
Delhi Secretariat,
I.P. Estate, New Delhi
2. The Medical Superintendent
Sanjay Gandhi Memorial Hospital
Mangolpuri, New Delhi-110083
3. Drawing & Disbursing Officer,
S.G.M. Hospital Mangolpuri,
Delhi

... Respondents

(Through Ms. Pratima Gupta, Advocate)

ORDER

Mr. P.K. Basu, Member (A)

The applicant was appointed as Senior Resident in the Department of Pediatrics with respondent no.2 on 23.07.2008. He completed three years tenure of senior residency on 27.07.2011. The applicant was reappointed on ad hoc basis with

effect from 28.07.2011 to 31.08.2011, 1.09.2011 to 30.09.2011, 2.10.2011 to 31.10.2011 and 1.11.2011 to 31.01.2012.

2. The prayer of the applicant is that when he was continued as Senior Resident, he should have been given salary of the said post at the time of continuation of his tenure after three years and further that his salary should be restored to Rs.77037/- (gross salary), which he was getting earlier (Annexure 'G') till January 2012.

3. The stand of the respondents is that the applicant's appointment beyond 27.07.2011 was a fresh appointment as per department circular dated 10.06.2011 which provided that "where no fresh candidates are available, candidates who have completed 3 years senior residency but are willing to serve as Senior Residents may also be allowed to appear in the interview." In this regard, learned counsel for the respondents placed before us copy of letter dated 7.09.2015, addressed to her by the Deputy Medical Superintendent. This order states that the respondents had issued a reasoned and elaborate order dated 7.03.2013 as per directions of this Tribunal in OA 4393/2012 earlier filed by the applicant. This order is also placed before us. In this order, the respondents have stated as follows:

"As per circular from Health & Family Welfare Department, Govt. of NCT of Delhi F.No.121/26/2010/ H&FW/ OSHFW/1996-2045 dated 10.06.2011 stating "that in the specialities where there is a perpetual shortage or in specialities where no fresh candidates are available candidates who have completed 3 years Senior Residency but are

willing to serve as Senior Residents may be allowed to appear in the interview.”

Interview notice regarding recruitment of SR was displayed on the notice board of the hospital. Since no fresh candidate reported for interview so Dr. Ganesh Lal was re-appointed on the basis of above circular as no new candidate applied for the post and also keeping in view his work and conduct report. Accordingly he was issued appointment order in reference to department letter no. 121/26/2010/ H&FW/ OSHFW/1996-2045 dated 10.06.2011 on monthly basis for a fixed period of not more than one year.

While going through the records available in this office, the incumbent was offered the post vide department order no. 121/26/2010/ H&FW/ OSHFW/1996-2045 dated 10.06.2011 and he was considered as fresh candidate accordingly to settle the accounts.

Since he was inadvertently paid salary of 3rd year senior residents during the period of his fresh appointment whereas he was eligible for drawing salary that of fresh Senior Resident, hence excess amount paid was deducted accordingly.”

4. On directions of the Tribunal, the learned counsel for the respondents has produced a copy of the note sheet of the relevant file pertaining to the respondents in which the following has been stated:

“May pls see that following SRs have completed their tenure, date mentioned against their name. Now they are willing to extend their tenure vide their letter no.3232 dtd. 25.7.11 & 3321 dtd. 27.7.11

- | | |
|-------------------|--------------|
| 1) Dr. Ganesh Lal | Pediatric |
| 2) Dr. Mili Verma | Obst & Gynae |

In this regard, as directed by Med. Supdt. one month further extension (till 31.08.2011) may be given to above said Doctors.”

It would be seen from the above that the applicant and another Dr. Mili Verma had actually been given extension and not reappointed as a fresh appointee.

5. We have heard the learned counsel for the parties and gone through the pleadings available on record.

6. It would be seen from the order dated 7.03.2013 itself that there is a dearth of Senior Residents and only in that circumstance, those already working as Senior Resident were given a chance to continue. No one else turned up for the interview. In fact, the copy of the note sheet produced by the learned counsel for the respondents also shows that the applicant along with one Dr. Mili Verma had been granted extension till 31.08.2011. Having allowed the doctors to continue, it is grossly unfair to drastically reduce their salary on the ground that they are fresh recruits. Since the applicant has served for three years, he should be paid salary due to a third year Senior Resident.

7. We passed this order in the light of the respondents' own statement that the applicant had been given extension and on extension, the salary can certainly not be reduced. Moreover, we also note that there is a serious shortage of doctors and by such actions government may scare away even those who are willing to join government hospitals, which serve the poor. Moreover, we find it against the principles of natural justice that the salary of a Senior Resident who has worked for three years, is suddenly

reduced by an amount of Rs.12,408/- (Rs.77,037/- earlier salary minus Rs.64,629/- reduced salary).

8. In view of above discussion, we allow this OA setting aside the impugned order dated 7.03.2013 with direction to the respondents to restore the salary of the applicant at Rs.77037/- per month since December 2011 to January 2012, as claimed by the applicant. No costs.

(P.K. Basu)
Member (A)

(Syed Rafat Alam)
Chairman

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