

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.3138/2016
M.A.No.2785/2016

Friday, this the 16th day of September 2016

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

1. Dr. Kumud Bharti w/o Mr. Mukesh Kumar
Age 43 years
Designation: Medical Officer
Aruna Asaf Ali Govt. Hospital, Delhi
r/o Flat No.19, Ground Floor, Type IV
Delhi Govt. Officers' Flats
Near Old Transport Authority
33, Rajpur Road, Civil Lines
Delhi – 110 054

Through

Mukesh Kumar s/o Late Mr. Phool Singh
Age 50 years
r/o Flat No.19, Ground Floor, Type IV
Delhi Govt. Officers' Flats
Near Old Transport Authority
33, Rajpur Road, Civil Lines
Delhi – 110 054
(Attorney)

..Applicant

(Mr. Mukesh Kumar appeared as Attorney)

Versus

1. Govt. of NCT of Delhi (GNCTD)
Through its Secretary
Department of Health & Family Welfare
9th Level, A Wing, Delhi Secretariat, IP Estate
New Delhi – 110 002
2. Directorate of Health Services
Through its Director
Government of NCT of Delhi, F-17, Karkardooma
Delhi – 110 032
3. Aruna Asaf Ali Govt. Hospital (AAAGH)
Through its Medical Superintendent
5, Rajpur Road, Civil Lines
Delhi – 110 054

4. Union Public Service Commission (UPSC)
Through its Secretary
Dholpur House, Shahjahan Road
New Delhi - 69

..Respondents

(Ms. Ritika Chawla, Advocate for respondent Nos. 1 to 3 –
Mr. R N Singh, Advocate for Mr. R V Sinha, Advocate for respondent No.4)

O R D E R (ORAL)

Justice Permod Kohli:

Mr. Mukesh Kumar, who is applicant No.2 in this O.A., submits that he is appearing as an attorney on behalf of applicant No.1, his wife (Dr. Kumud Bharti). Deed of attorney has been filed along with the O.A. In view of the deed of attorney, he is not to be a party in the O.A. The applicant No.1 (Dr. Kumud Bharti) can file the Petition through her duly constituted attorney, i.e., Mr. Mukesh Kumar. In this view of the matter, he seeks indulgence of the Tribunal to make necessary correction in the cause title showing Mukesh Kumar as attorney. Prayer is allowed. Necessary correction made in the open Court. In view of this, M.A. No.2785/2016 for joining together in a single Petition does not survive. The same is accordingly dismissed.

2. Notice. Ms. Ritika Chawla, learned counsel appears and accepts notice on behalf of respondent Nos. 1, 2 and 3 and Mr. R. N. Singh for Mr. R.V. Sinha, learned counsel, appears and accepts notice on behalf of respondent No.4.

3. Heard.

4. The applicant was initially appointed as Medical Officer on contract basis on 24.04.2000 on fixed emoluments. She was later granted regular

pay scale. The applicant filed O.A. No.1393/2001 seeking direction for payment of regular pay scale. The said O.A. was decided vide Judgment dated 19.10.2001 with the following directions:-

“4. We have considered the matter. The plea raised on behalf of the applicants is that the latest order does not show that they will be entitled to all allowances. We feel that this is a plea, which need not have made when in terms of the Govt’s order, individuals have been placed in the scale of pay. When an individual has been placed on a particular pay scale, it goes without mentioning that the allowances attendant thereto shall also be paid, unless it is specifically barred. Still, as the applicants are repeatedly making a submissions, we direct that the order dated 11-8-2001 be read as including allowances attached to the said scale. The applicants would also be entitled for the arrears from the date of their initial appointment”, as they had worked in the post. OA is accordingly disposed of.”

4. Vide Office Memorandum dated 18.12.2006 issued by the respondent No.1 (Govt. of NCT of Delhi) a new service known as the Delhi Health Service for Medical Practitioners under the allopathic system of medicine was created. Thereafter a Notification was published whereby the Delhi Health Services (Allopathy) Rules, 2009 were framed. Under Rule 6 (2), the initial service was constituted, which included the officers appointed on contract basis/*ad hoc* basis till 18.12.2006. It is stated that the applicant (Dr. Kumud Bharti) is deemed to have been appointed under the aforesaid Rules, as she was educationally qualified and eligible having requisite experience. The applicant is aggrieved of the order dated 16.08.2016 (Annexure A-1) whereby a number of Medical Officers have been promoted to Senior Medical Officer but the applicant has been denied such promotion. She has served a legal notice dated 19.08.2016 (Annexure A-6) to the Principal Secretary, Department of Health & Family Welfare, Govt. of NCT of Delhi, which has not been decided as yet.

5. Keeping in view the nature of relief claimed, this O.A. is disposed of at the admission stage itself with direction to respondent No.1 – the Secretary, Department of Health & Family Welfare, Govt. of NCT of Delhi to take decision on the aforementioned legal notice dated 19.08.2016 by passing a reasoned and speaking order within two months from the date of receipt of copy of this Order. No costs.

(K.N. Shrivastava)
Member (A)

September 16, 2016
/sunil/

(Justice Permod Kohli)
Chairman