

**Central Administrative Tribunal
Principal Bench**

OA No. 1246/2017

Order reserved on: 06.08.2018
Order pronounced on : 20.08.2018

Hon'ble Mr. Pradeep Kumar, Member (A)

Dr. Mahesh Chauhan, aged 48 years,
Medical Officer,
S/o Late Dr. Udai Veer Singh
R/o H.No. D-2/32, Second Floor,
Janak Puri,
New Delhi-110058.

... Applicant

(By Advocate: Sh. Kanwar Udai Bhan Singh Sehrawat with Sh. Babulal Jangira and Sh. Gaurav Sehrawat)

Versus

1. Government of NCT of Delhi,
Through Principal Secretary (Health),
Health & Family Welfare Department,
9th Level, A-Wing, Secretariat,
New Delhi.
2. The Director,
Directorate of Health Services,
Government of NCT of Delhi,
Health & Family Welfare Department,
F-17, Karkardooma,
Delhi-110092.
3. The Chief District Medical Officer,
South-West District,
Directorate of Health Services,
Government of NCT of Delhi,
Sector-2, Dwarka,
New Delhi.
4. The Deputy Controller of Accounts (Funds),
Govt. of NCT of Delhi,

Near Metcalf House, Vikas Bhawan-II,
Ring Road,
Delhi-110054.

... Respondents

(By Advocate: Sh. Amit Anand)

ORDER

Heard the learned counsel for applicant and the learned counsel for respondents.

2. The applicant pleaded that he was appointed as a Contract Doctor on 13.11.2000 by the Directorate of Health Services. In due course the services were regularised w.e.f. 23.12.2009. The applicant pleaded that in terms of judgment in **Harbans Lal vs. State of Punjab and others** by the Hon'ble High Court of Punjab and Haryana (CWP No.2371/2010 decided on 31.08.2010) it was decided that the work charge service shall qualify towards pensionary benefits.

3. The applicant also drew attention to the decision of this Tribunal in OA No.2108/1999 decided on 08.05.2000. The relevant portions of this judgment are reproduced below:

“This is an application filed by the Homoeopathic doctors appointed on contract basis by the National Capital Territory of Delhi Administration. The applicants 20 in number are seeking parity in scale of pay and allowances, leave, increments, maternity leave and also benefits of service conditions as are admissible to other regular Medical Officers (Homoeopathy) (MO(H), for short) from the date of their appointment and to treat

them as having continued in service from the date of their first appointment ignoring the break of one or two days given in their service, till regular appointments are made to the post. Applicants have also sought age relaxation to the extent of service put on contract basis in case they apply for regular appointment. An interim stay was granted to the applicants restraining the respondents from discontinuing their services.

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9. This being so, according to us, the judgements in Dr. Sangeeta Narang as well as Dr. Paliya's cases are squarely applicable to the present case also. We, therefore, direct the respondents that the applicants should be continued in service till regular appointments are made to the post and applicants should be treated as having continued in service from the date of their first appointment ignoring the artificial break of one or two days in their service. In the event of the posts being filled by regular recruits, the same shall be adjusted against vacant posts and only after all the vacant posts are filled should regular recruits replace the present applicants and such replacements shall be on the basis of last come first go. Respondents are further directed to grant age relaxation to the applicants to the extent of the service put in by them on contract basis in case they apply for regular appointment. We also direct the respondents to grant to the applicants same scale of pay and allowances, leave, increment, medical facilities and also other benefits of service conditions as are applicable to other MOs(H) from the date of their initial appointment.

10. With the above observations, the OA is allowed. We however do not order any costs."

4. In compliance of the judgment of this Tribunal, the relevant policy directions were also issued by the Government of National Capital Territory of Delhi (GNCTD) vide their order dated 25.07.2001 which reads as follows:

"The issue of grant of regular pay scale to ISM & H and Allpathic doctors has been finally considered by the

Council of Ministers in the context of Judgment in O.A. No.2108/99 pronounced by the Hon'ble CATs and it has been decided that the aforesaid decisions of the CATs be implemented in the case of all remaining contractual Medical Officers and Junior Specialists to avoid in fructuous litigations within a period of 15 days as the matter has to be brought to the notice of Hon'ble CATs in the cases which are still pending."

5. In above context, the case of the applicant is that he was communicated a GPF Number and certain deductions were also made. However, subsequently this GPF account was cancelled on the plea that this GPF deduction was wrongly made and is not due in respect of Contract Doctors. Accordingly, the applicant had come up to the Tribunal seeking following reliefs:

"b) Direct the Respondents to reactivate the GPF A/c No. DA/27990 of the Applicant

c) Direct the Respondents No.1 to 4 to not to deduct the CPF from the Salary of the Applicant as per New Pension Scheme;

d) Costs of the present application may also be awarded to the Applicant."

6. The respondents brought out that the applicant was originally engaged as a Contract Doctor on a consolidated salary of Rs.10,000/- p.m. purely on contract basis and his terms and conditions read as follows:

"1. The post is purely on contract basis for a period of one year only or till regular appointment is made, whichever is earlier. The appointment can be terminated at any time (one either side) by giving one month's notice or by paying one month's salary without assigning any

reason or failure to complete the initial period of three months to the satisfaction of the competent authority.

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5. The appointee shall not be entitle to any benefit of provident fund, pension, gratuity, medical attendance treatment, seniority, T.A., PGA, or any other benefit which are available to the Govt. servant appointed or regular basis.

6. Non practicing allowance is also not admissible.

7. The appointee will not be granted any right or claim for regular appointment to the post.

8. Only consolidated pay will be admissible, no dearness allowance and other allowance, admissible to employees of Central/State/UTs of India, are admissible.”

7. In due course of time, a new service was formed by GNCTD and a notification was issued on 20.08.2014 wherein a list of Medical Officers was issued, who were appointed to this new service, namely, Delhi Health Service w.e.f. 23.12.2009 and accordingly since the service itself has started from 23.12.2009 when the new pension scheme had already come in place, the plea of the applicant to grant him pension from the date of his initial engagement on contract basis is not sustainable.

8. The matter has been heard at length. It is seen that as per the specific terms of contract, which were specified in the contract appointment letter, the benefit of Provident Fund was not admissible and the applicant was eligible for a consolidated salary of Rs.10,000/- p.m. only. In compliance of this Tribunal's order

passed in OA No.2108/1999 the Contract Doctors, so appointed, were granted the scale of Regular Doctors. However, this by itself cannot change the other service conditions with regard to Provident Fund etc. which were specially debarred as per the original appointment letter.

9. The Government notification of 2001 was in follow up of Tribunal's judgment in OA No.2108/1999 and was in the context of directing respondents (GNCTD) to grant to the applicants same scale of pay, allowances, leave, medical facilities and also other benefits of service conditions as are applicable to other Medical Officers (H) from the date of their initial appointment and they were granted benefit of age relaxation etc. to the extent of service rendered as contract doctor if and when posts were to be filled subsequently on regular basis. This order, therefore, cannot be stretched to also include grant of Provident Fund and pension which were specifically barred from the entitlement of the applicant as per their original appointment letter dated 02.11.2000.

10. In the event, the OA is dismissed as devoid of merit. No order as to costs.

(Pradeep Kumar)
Member (A)

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