

**Central Administrative Tribunal
Principal Bench**

OA No.2130/2017
MA No.2284/2017

Orders Reserved on 06.03.2019

Pronounced on: 12.03.2019

Hon'ble Mr. S.N. Terdal, Member (J)
Hon'ble Mr. Pradeep Kumar, Member (A)

Dr. Sumit Sankhla,
S/o Sh. Ramji Lal,
R/o M-393, First Floor,
Guru Harkishan Nagar,
Paschim Vihar,
New Delhi-87.

-Applicant

(By Advocate Ms. Kushagra Bansal)

-Versus-

1. Govt. of NCT of Delhi
Th: Principal Secretary,
Department of Health & Family Welfare,
9th Level, A Wing, Delhi Secretariat,
I.P. Estate, Delhi-02.
2. Rao Tula Ram Memorial Hospital,
Th: Medical Superintendent
At Jaffarpur
New Delhi-73.

-Respondents

(By Advocate Shri Amit Anand)

O R D E R

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

The applicant is a Dental Doctor, who has passed the BDS Course from Pandit Bhagwat Dayal Sharma University of Health Sciences, Rohtak in December, 2013. Thereafter he

completed one year rotating internship from 15.01.2014 to 23.02.2015. He intended to work as Junior Resident (JR) (BDS) in Rao Tula Ram Memorial Hospital (RTRMH) under GNCTD. He was engaged as JR (BDS) on 20.08.2015 on honorary basis for a period of three months from 2008.2015 to 19.11.2015. Thereafter, this JR-ship was extended on same terms w.e.f. 20.11.2015 to 19.02.2016.

2. The RTRMH invited applications on 12.11.2016 for one post of JR (BDS) and walk-in-interview was to be held. This interview was held on 21.01.2016 and one Dr. Kusum was selected. Applicant's name was kept on wait list no.1. Dr. Kusum eventually joined and worked as JR (BDS).

The applicant was also allowed to work on honorary basis as JR (BDS) for the period 31.12.2016 to 31.03.2017.

The said Dr. Kusum worked until 23.05.2017 and thereafter left the job. Thereafter, the applicant applied on 29.05.2017 to be posted on this vacancy of JR (BDS). The respondents, however, allowed him to continue as JR (BDS) on honorary basis for 44 days vide their letter dated 30.05.2017. One of the terms and conditions mentioned in this letter reads as under:

“1. The appointment is **purely on an adhoc basis for period of 44 days** with effect from the date of joining in the hospital or till the regular appointments are made, whichever is earlier.”

3. The RTRMH subsequently issued a vacancy notice on 06.06.2017 inviting applications for the post of JR (BDS). There was one post of JR (BDS) for which interview was to be held on 20.06.2017. The applicant represented on 08.06.2017 to allow him to continue on the post of and not to fill the same by holding fresh interviews. This has not been accepted. Feeling aggrieved, the present OA has been filed.

4. The applicant pleads that JR-ship has to be for a minimum period of one year as per Ministry of Health & Family Welfare letter dated 09.06.1992. This stipulation has not been followed by RTRMH as he has been engaged only on honorary basis and that also for shorter durations.

5. The applicant also relied upon the judgments by the Tribunal in OA No.160/2015 (**Manish Gupta & Ors. v. Medical Supdt., Guru Tegh Bahadur Hospital**) and in OA No.421/2016 (**Dr. Ankita Sharma & Ors. v. Govt. of NCT of Delhi & Ors.**).

6. The applicant also pleads that certain other candidates, viz. Dr. Yogi Miglani and Dr. Nikhil Singh were permitted to do JR-ship for longer durations.

7. The respondents opposed the OA and brought out that the applicant had given an application dated 04.08.2015 to RTRMH, which reads as under:

“This is to kindly put into your notice that I Dr. Sumit Sankhla (B.D.S.) want to join as on honorary basis in dental department. So, I request you to kindly accept my application & allow me to get the joining letter. I shall be very grateful to you.”

8. The respondents had pleaded that the applicant considered it beneficial for himself to gain the experience, even on honorary basis and, therefore, he had offered on his own, from time to time, to work on honorary basis as he was not posted on regular basis. This was, accordingly offered and accepted by the applicant.

9. The GNCTD vide their policy directives dated 29.03.2017 had advised all Medical Superintendents to engage the Senior Residents for a period of three years and JRs for a period of one year on regular basis. Accordingly, various hospitals had invited applications. It was in follow up of these directions that notice was issued by RTRMH also on 06.06.2017 wherein many vacancies were to be filled up out of which there was one post for JR (BDS) also. This vacancy notice had also specified the eligibility criteria for JR (BDS). The same reads as under:

“BDS with recognized University and internship should not have been completed more than 02 years prior to date of interview and registered with Delhi Dental Council (as per residency scheme).”

Since applicant completed his rotating internship in February, 2015, he was not eligible to be considered.

10. The respondents pleaded that engagement of JR (BDS) has to be drawn as per the extant policy directives and regular candidates are to be selected. It is in accordance with this that Dr. Kusum was selected in the interview held on 21.11.2016. Once the said Dr. Kusum left the JR-ship, the RTRMH had initiated steps to engage another JR (BDS) on a regular basis and this process cannot be stopped in favour of the applicant.

10.1 Accordingly the OA is opposed and is requested to be dismissed being devoid of merit.

11. The matter has been heard at length. Ms. Kushagara Bansal, learned counsel represented the applicant and Shri Amit Anand, learned counsel represented the respondents.

12. The terms and conditions for engagement of JR (BDS) specify the eligibility conditions also as has been brought out above (para-9 supra). In regard to the applicant, since he could not be given JR (BDS) on regular basis, it was the applicant's own request to be engaged on honorary basis which was agreed to by RTRMH for the time duration as possible. It is not permissible for the applicant now to turn

around and question the very terms and conditions of those honorary engagements.

13. The selection process for JT (BDS) as per the interview held on 21.11.2016, culminated when Dr. Kusum joined as JR (BDS). With her joining the wait list for that year automatically lapses and is no more relevant for subsequent years.

14. The subsequent vacancy notice for JR (BDS) was issued on 06.06.2017. This is a new notice in which the wait list of an earlier notice, is not eligible to be taken into account.

15. In view of the foregoing, the contentions put-forth by the applicant to cancel the notification dated 06.06.2017 are not finding acceptability. The terms and conditions for engagement of the applicant, as issued on 30.05.2017, very clearly indicate that the same will hold true till a regularly selected candidate is available. The process for the same was initiated on 06.06.2017.

16. The decisions of the Tribunal cited by the applicant (para-5 supra) are in a different context and those ratios are not attracted.

17. In view of the foregoing, the OA is dismissed, being devoid of merit.

There shall be no order as to costs.

MA No.2284/2017 also stands disposed of accordingly.

(Pradeep Kumar)
Member (A)

(S.N. Terdal)
Member (J)

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