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Central Administrative Tribunal, Principal Bench

Original Application No. 1343 of 2003

New Delhi, this the 15th day of December, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member (A)

1. Mukesh Kumar
S/o Shri Ghasi Ram Lakra
R/o H.No.663 Village & Post Office
Mundka, Delhi-41

2. Vinay Yadav
S/o Shri Bharam Prakash Yadav,
H.No.10, Extn. No.2, Nangloi,
Delhi-41

.... Applicants

(By Advocate: Shri S.K. Sinha)

Versus

1. Govt. of NCT of Delhi,
through the Principal Secretary (Health
and Family Welfare),
Indraprastha Sachivalaya,
New Secretariat, ITO,
New Delhi

2. Director of Health,
Govt. of NCT of Delhi,
Karkardooma,
Shahdara, Delhi

.... Respondents

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

During the course of submissions, learned counsel
for the applicants pressed for two reliefs:

(a) the applicants should be regularised; and

(b) they should be given the same scales as are
being given to regularly appointed Junior
Radiographers.

2. It is not in dispute that the applicants had been

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appointed and continued to work on ad-hoc basis as Junior Radiographers. It is in this backdrop of the fact that the applicants contend that they have been working for almost more than two years and, therefore, the abovesaid reliefs should be granted. Pertaining to the second relief, the principle of "equal pay for equal work" is being pressed into service.

3. Learned counsel for the respondents contests the petition. He has drawn our attention to an order passed by this Tribunal in O.A.2004/2003 decided on 14.11.2003 in the case of Lini James and others vs. Govt. of N.C.T. Delhi and another, to contend that on a similar plea, the question of regularisation had been considered and rejected. As regards the second relief, the plea of the learned counsel for respondents is that such an order directing the respondents to give a regular pay scale cannot be passed by this Tribunal. He relies upon the decision of the Supreme Court in the case of Orissa University of Agriculture & Technology & anr. vs. Manoj K. Mohanty, 2003 (1) SCSLJ 363.

4. We have considered the said submissions. So far as the first limb of the argument is concerned, indeed in the case of Lini James and ors. (supra), a similar question pertaining to regularisation had been considered. Therein the applicants were working as Technical Assistants/Laboratory Technicians/Laboratory Assistants. They too had been appointed on ad-hoc basis and also prayed for regularisation. The contention which is now being put forward had been considered and the petition had been

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dismissed. On parity of reasoning, therefore, the first plea of the applicants must fail.

5. Pertaining to the second argument, the learned counsel for the applicants has relied upon the decision of the Delhi High Court in the case of Govt. of National Capital Territory of Delhi and ors. vs. Kamal Jit and ors. (C.W.P. No. 5/2003) decided on 30.9.2003. The order of the Delhi High Court in this regard reads:

"Learned counsel for the petitioners submits that the Department has decided to release full salary and other allowances, which would be at par with the regular employees, to the ad hoc workers, who have completed more than one year. Learned counsel submits that in view of the said decision the petitioners are not interested in pursuing this writ petition further."

It is on the strength of the same that the applicants claim parity of pay scales and any other similar benefit.

6. Our attention is being drawn to the fact that the applicants have come to this Tribunal after continuation of their services as Junior Radiographer on ad-hoc basis was not granted because the regular candidates had joined.

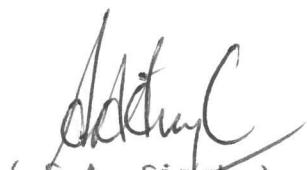
7. Keeping in view the order that has been produced on the strength of which the Delhi High Court had dismissed the writ petition, at this stage we only direct that the respondents would consider the claim of the applicants in the light of the submission that was made and the legal position and pass an appropriate order preferably within



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four months of the receipt of the certified copy of the present order and communicate it to the applicants.



(S.A. Singh)
Member (A)



(V.S. Aggarwal)
Chairman

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