

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.170/2003

New Delhi, this the 3rd day of September, 2003.

**Hon'ble Shri Justice V.S. Aggarwal, Chairman
Hon'ble Shri S.K. Naik, Member(A)**

Miss Preeti, Staff Nurse
Aruna Asaf Ali
Government Hospital
D/o Late Ram Kumar
R/o E-20/6, Sector-III
Rohini
Delhi.

.. Applicant

(By Advocate: Shri S.N. Anand)

versus

1. Government of National Capital Territory
of Delhi through
Principal Secretary (Health)
IP Estate
New Delhi.
2. The Medical Superintendent
Aruna Asaf Ali Govt. Hospital
Rajpur Road
Delhi.
3. The Head of Office
Aruna Asaf Ali Govt. Hospital
Rajpur Road
Delhi. Applicant

(By Advocate: Shri Mohit Madan)

ORDER (ORAL)

Justice V.S. Aggarwal

Applicant (Miss Preeti) was appointed as Staff Nurse in a walking interview held by the Staff Selection Board of Aruna Asaf Ali Government Hospital, Delhi on 29.9.2000 on purely temporary/ad hoc basis initially for a period of six months or till the post was filled up on regular basis whichever was earlier. She was paid the basic pay plus Dearness Allowance. Her appointment had been extended



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from time to time.

2. Some of the similar situated persons had filed an application in this Tribunal. An order was passed granting full pay and allowances to those persons at par with regular employees. In compliance of the aforesaid order of this Tribunal, the respondents paid full pay and allowances to those employees. Thereafter a written test was conducted on 29.9.2002 for regular employment of Staff Nurses and the applicant had qualified. On coming to know of the grant of full pay and allowances to the Staff Nurses and that her name was omitted, she made a representation, but no reply was received. By virtue of the present application, she seeks a direction to grant her the benefit of equal pay for equal work at par with those who are regularly appointed and a further direction to the respondents to pay the arrears from 1.4.2002 and steps should be taken to regularise her services on basis of her qualifying the examination held on 29.9.2002.

3. The application has been contested. The facts that the applicant had been appointed on short-term basis and that her term had been extended are not being disputed. It was pleaded that the decision of the Government to give basic pay plus Dearness Allowance to the short-term contract employment was in pursuance of the decisions of Supreme Court and this Tribunal, but certain contradictory orders were forthcoming and in such petitions, the Delhi High Court had stayed the operation

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of such orders. It has been pleaded further that the Government of National Capital Territory of Delhi has not accepted the contention of the individuals that they should be paid the regular scales.

4. During the course of submissions, the learned counsel for the respondents had asserted that in some such cases, the Delhi High Court in similar matters had stayed the operation of those orders.

5. On careful consideration of the matter, we find that the contention of the respondents' learned counsel has no merit. This is firstly for the reason that staying the operation of an order in a particular case does not ipso facto tantamount to stating that in similar matters all cases have to be stayed. Till such time, a final order is passed, the interim order so passed would confine to the facts of that case. When no final order as yet has been passed, the plea necessarily must be held to be without any merit.

6. The applicant's name had been approved in a walking interview and the offer of appointment dated 14.12.2000 reads:-

"On the basis of recommendation of S.S.B. On your performance in the WALK IN INTERVIEW held on 29.9.2000 the undersigned is pleased to offer you the post of Staff Nurse on purely temporary/Contract basis for a period of six months or till the post is filled-up on regular basis, whichever is earlier, the post is non-transferable and Basic Pay plus D.A. will be paid against the post.

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Your acceptance in this regard should reach the undersigned within 7 days from the date of issue of letter."

Thereupon the appointment order had been passed which is being reproduced below for the sake of facility:-

"Consequent upon the recommendation of Selection Board of this hospital the following Staff Nurses have been selected on purely temporary short term contract basis for a period of six months from the date of their joining after declared medically fit by this hospital and taken on strength w.e.f. date mentioned against their name.

The salary of under mentioned Staff Nurses will be paid Rs.5000 + DA per month.

SL. No.	Name of the Official	Date of Joining
1.	Ms. Aradhana	29.11.2000
2.	Ms. Preeti	14.12.2000
3.	Ms. Jyoti	15.12.2000
4.	Ms. Muanching	2. 1.2001"

It is not in dispute that thereafter when the period for which the applicant was appointed had expired, the applicant was re-appointed on short-term basis or in other words, it is obvious that there is work requirement in this regard.

7. During the course of submissions, it was not disputed that similarly situated Staff Nurses had filed OA No.126/2002 in the case of Kumari Seema vs. Government of NCT of Delhi and Others which was decided by this Tribunal on 5.3.2002. This Tribunal had allowed the same and directed the respondents to make payment of

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salary due to the applicants therein within two weeks and future payment was to be made on the principle of equal pay for equal work. The said decision of this Tribunal had been implemented by the respondents and a copy of the order so passed is dated 26.6.2002.

8. When such is the situation, we find no reason as to why the applicant's matter has been segregated. Once there is a decision on a particular point, the respondents are required to implement the same in all cases rather than directing the persons concerned to approach this Tribunal/courts time and again.

9. This controversy otherwise also had been considered by this Tribunal in the case of **Mrs. Sangita Narang and Ors. v. Delhi Administration ETC.**, [1988] 6 ATC 405 and also by the Delhi High Court in the case of **Government of National Capital Territory of Delhi & Ors. v. Dr. V.S. Chauhan** in Civil Writ Petition No. 3641/1998 decided by the said High Court on 11.9.1998. In similar matters where the employment had been given on contract basis which was being extended from time to time, the order of this Tribunal was upheld holding that there is no question of denial of equal pay for equal work. The decision in the case of V.S. Chauhan (s) was upheld by the Supreme Court when the National Capital Territory of Delhi had preferred Special Leave Petition No. 949/1999 which was dismissed by the Supreme Court in limine on 1.2.1999. There is no reason, therefore, to take a

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different view. In fact, our attention was being drawn towards an order issued by the Director of Health Services dated 12.9.2002 which reads as under:-

"Due to continued procedural delay in recruiting the Para-medical staff, on regular basis, Technical Recruitment Cell of Govt. of NCT of Delhi, has allowed to recruit the staff on contract basis i.e. for 89 days in the first instance, who were entitled for Basic Pay and Dearness Allowance. Some of the staff members recruited on contract basis, went to C.A.T. against the salary paid to them on the grounds that there should be equal pay for equal work, seeking the same pay and allowances, as being paid to regular staff.

2. After due deliberations in various OAs filed by the different incumbents of Para Medical Staff, appointed on contract basis, the Hon'ble C.A.T. was pleased to pass an identical order in all these cases, extracts of which are re-produced below:-

"Respondents to make payments of the salary as admissible to regular staff, to the applicants within a period of two weeks. The applicant will be entitled to future pay on the principle of equal pay for equal work, at par with the regular employees."

AND

"Recoveries, if any, made from the salary of the applicants shall be refunded to them immediately".

All the staff (Para/Medical) recruited on contract basis will continue to perform their duties and functions, till further orders.

All the CMO Incharges/Head of offices, under DHS, are hereby ordered to ensure that above directions of C.A.T. are implemented in its letter and spirit and an ACTION TAKEN REPORT is furnished to DHS(HQ) within 03 days positively.

Sd/
(Dr. R.N. Baishya)
DIRECTOR, DTE OF HEALTH SERVICES "

In other words, a decision has already been taken to



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recognise the earlier orders passed by this Tribunal. We are little surprised that still the contest is being offered.

9. As regards the prayer that the applicant should be regularised because she has qualified the test for regular appointment, suffice to say that in accordance with law, the steps have to be taken and no further direction on that count requires to be issued.

10. For these reasons, the present application is allowed directing:-

- (a) on the principle of equal pay for equal work, the respondents should make the payment of salary to the applicant;
- (b) arrears should be paid from the date of the order dated 12.9.2002 when the decision was taken by the Directorate of Health Services, Government of National Capital Territory of Delhi;
- (c) compliance of this order should be effected within three months.

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No costs.

Announced.

Naik
(S. K. Naik)

Member (A)

/sns/

Aggarwal
(V. S. Aggarwal)

Chairman