

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD**

**Original Application No. 419/2019
Date of Order : 03.06.2019**

Between :

1. A. Veera Reddy
S/o A. Rami Reddy
Group 'C' Aged about 43 years
Occ: Health & Malaria Inspector (Contract)
Door No.4-121, Medikonduru Post
Guntur District, Andhra Pradesh-522438.

2. N. Vijayakumar,
S/o Narasimhulu Group 'C'
Aged about 39 years
Occ: Health & Malaria Inspector (Contract)
Sivapuram Street, III Ward, Narsipatnam
Visakhapatnam, Andhra Pradesh – 531116. ... Applicants

And

1. Union of India rep. by the
The General Manager
South Central Railway
Rail Nilayam, Secunderabad.
2. The Principal Chief Personnel Officer
South Central Railway
Rail Nilayam, Secunderabad.
3. The Chief Medical Director
South Central Railway

Rail Nilayam, Secunderabad.

4. The Divisional Railway Manager

South Central Railway

Vijayawada Division, Vijayawada.

5. The Senior Divisional Personnel Officer

South Central Railway

Vijayawada Division, Vijayawada. Respondents

Counsel for the Applicant ... Mr. K.R.K.V.Prasad, Advocate

Counsel for the Respondents ... Mr.N.Srinatha Rao, S.C.for Rlys.

CORAM:

Hon'ble Mr.Justice L.Narasimha Reddy ... Chairman

Hon'ble Mr. B.V.Sudhakar ... Member (Administrative)

ORAL ORDER

[As per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman]

The applicants herein were selected and appointed as Health & Malaria Inspectors on contract basis in the Vijayawada Division of South Central Railway through orders dated 18.04.2008 and 27.06.2008 respectively. However, they were discontinued from the post on 09.03.2016 and 30.06.2014 respectively.

The respondents issued a notification for walk-in-interview for the posts of Para Medical staff in Medical Department of the Division. The same is challenged in this OA. The applicants contend that once they have been selected and appointed as Health & Malaria Inspector and worked there for considerable length of time, there was absolutely no basis to replace them with another set of employees, on contract basis. It is also stated that the respondents are taking the plea that there

is change in policy.

2. We heard Mr.K.R.K.V.Prasad, learned counsel for the applicants and Mr.N.Srinatha Rao, learned standing counsel for the respondents at length.

3. It is not in dispute that the applicants herein were selected and appointed as Health & Malaria Inspectors way back in 2008, albeit on contract basis. Both of them were continued for a fairly long time i.e. upto the years 2016 and 2014 respectively.

4. It is true that the Railway Board issued circular dated 17.01.2018 stipulating the policy for filling up the posts of Para Medical Staff (Group-C). According to this, preference is given to the retired staff. It is only when adequate retired staff are not available, that recourse can be taken to appointment of individuals on contract basis. The relevant paragraphs of the circular read as under :

"Vide Railway Board letter referred to above (ref 1), filling up of posts in para-medical categories in Group 'C' on contract basis, was permitted.

The matter has been reconsidered and with the approval of Board (MS, CRB), it has been decided that -

I. Filling up of the posts of para-medical staff in Group 'C' are permitted by re-engaging the retired employees as a first preference. Such re-engagement should be done as per extant guidelines including the ones contained in Railway Board letter no.E(NG)-II/2007/RC-4/CORE/1 dated 16.10.2017 and 12.12.17.

II. *Only if retired para-medical staff is not available, the option of recruiting such staff on contractual basis should be exercised which should be done as per extant guidelines including the ones given in letter no.E(NG)II/2004/RC-4/SC/2 dated 19.07.2005.*

III. *The scheme of filling of posts in para-medical categories in Group 'C' on contract basis is valid till 30.06.2018 (Rly Board letter no.E(NG)II/2005/RC-4/SC/2 dated 22.06.17). The scheme is now extended to 30.06.2019 subject to compliance of para (i) and (ii) above.*

IV. *The monthly remuneration rates, for filling up posts in para-medical categories in Group 'C' on contract basis, are under revision. Therefore, recruitment of para-medical staff on contract basis should be done only after the revised rates are issued by Ministry of Railways.*

V. *The power of engagement of para-medical staff in Group 'C' on contract basis is delegated to DRMs for divisions and CWMs for workshops. For rest of the units, existing delegation will continue.*

This issues with the concurrence of Associate Finance of Transformation Cell of Railway Board."

5. The respondents issued Notification dated 07.08.2018 inviting applications from retired staff for appointment as Health & Malaria Inspector. This accords with the Notification dated 17.01.2018. Had the matter stopped at that, the applicants would not have been in a position to challenge the action of the respondents.

6. Having issued a notification dated 07.08.2018 inviting applications from retired staff, the respondents have issued the news paper advertisement on 19.04.2019 to fill the vacancies of Health & Malaria Inspectors, by appointing

fresh candidates, on contract basis. The facility of walk-in-interviews is provided. It is fairly well settled that one temporary / contract employee cannot be replaced with another temporary / contract employee. The engagement of that nature, once made, needs to be continued till the regular appointment is made. If for any reason such engagement is discontinued, the fresh appointment on contract basis cannot be made with other candidate. The one who was engaged earlier needs to be taken back, unless he is unwilling. The respondents cannot justify the notification dated 19.04.2019 on the basis of the change in policy.

7. We, therefore, allow the OA and direct the respondents, that in the context of appointing Health & Malaria Inspector in Vijayawada Division of South Central Railway on contract basis, the applicants shall be preferred and not the fresh candidates.

8. There shall be no order as to costs.

(B.V.SUDHAKAR)
MEMBER(ADMN.)

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

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