

A

UNION OF INDIA AND ORS.

v.

DR. DEVENDRA VIR SAHI

APRIL 18, 1995

B

[J.S. VERMA AND SUJATA V. MANOHAR, JJ.]

Service Law : Railways—Assistant Medical Officers—Appointment on ad hoc basis—Regularisation—Screening by Union Public Service Commission—Criteria—Scrutiny of service records as also interview—Procedure followed—Validity of.

C

By its judgment and order dated September 24, 1987 in *Dr. A.K. Jain & Ors. v. Union of India*, [1987] Supp. SCC 497 this Court directed regularisation of the services of Assistant Medical Officers appointed in the North Eastern Railways on *ad hoc* basis upto 1.10.1984. The regularisation was done on the basis of evaluation by Union Public Service Commission of their work and conduct as seen from their confidential reports.

D

The respondent was appointed as Assistant Medical Officer on 20th July, 1985. *Ad hoc* appointments of doctors in the Indian Railway Service were banned in 1986. It was however decided that benefit of regularisation be given to those who were appointed *ad hoc* on or after 1.10.1984, but before November, 1986 provided they were found suitable by the Union Public Service Commission. 119 doctors were screened and 105 found fit for regularisation. 14 doctors including the respondent were found unfit and their services were terminated.

E

F

Respondent approached the Central Administrative Tribunal and it held that the respondent should have been considered for regularisation only on the basis of his Confidential Reports as was done in the case of Assistant Medical Officers who were covered by the judgment of this Court in *Dr. A.K. Jain's* case. It also held that until the respondent's case was considered for regularisation on this basis, his services should not be terminated.

G

Hence this appeal by the Union of India.

H

Allowing the appeal, this Court

HELD : 1.1. The respondent was appointed after 1.10.1984 and hence he cannot get the benefit of the directions given in *Dr. A.K. Jain's* case. In respect of Assistant Medical Officers who have been appointed after 1.10.1984, the appellants decided to regularise the services of those doctors who were considered suitable for regularisation by the Union Public Service Commission. The Union Public Service Commission took into account the service records of the Assistant Medical Officers and also interviewed them in order to decide their suitability for regularisation. There is no reason for finding fault with this process of regularisation.

[428-H, 429-A, B]

1.2. For regularisation, the respondent had to be found fit by the Union Public Service Commission. Since he was found unfit, he could have no grievance against the termination of his services in these circumstances. [429-F]

Union of India and Ors. v. Dr. Gyan Prakash Singh, JT (1993) 5 SC 681, held applicable.

Dr. A.K. Jain and Ors. v. Union of India & Ors., [1987] Supp. SCC 497, held inapplicable.

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 4470 of 1995.

From the Judgment and Order dated 26.11.92 of the Central Administrative Tribunal, Allahabad in O.A. No. 579 of 1992.

Ms. Kitty Kumaramangalam and V.K. Verma for the Appellants.

A.K. Sinha and K.K. Gupta for the Respondent.

The Judgment of the Court was delivered by

MRS. SUJATA V. MANOHAR, J. Leave granted.

The respondent was appointed in the North Eastern Railways as Assistant Medical Officer on an *ad hoc* basis on 20.7.1985. In the case of *Dr. A.K. Jain & Ors. v. Union of India & Ors., [1987] Supp. SCC 497*, this Court, by its judgment and order dated 24.9.1987, directed regularisation of the service of Assistant Medical Officers or Assistant Divisional Medical Officers appointed in the North Eastern Railways on an *ad hoc* basis upto

- A 1.10.1984. This Court directed such regularisation on the basis of evaluation of their work and conduct as seen from their Confidential Reports. Such evaluation was directed to be done by the Union Public Service Commission. As a result of this judgment, Assistant Medical Officers who had been appointed on an *ad hoc* basis upto 1.10.1984 were regularised after examination of their service record by the Union Public Service Commission.
- B The respondent herein was appointed on 20th of July, 1985. Hence he was not entitled to the benefit of the judgment of this Court in *Dr.A.K. Jain's* case (*supra*).

- C In the year 1986, *ad hoc* appointments of doctors in the Indian Railway Services were banned. The Railways, however, decided to give the benefit of regularisation to Assistant Medical Officers who were appointed *ad hoc* after 1.10.1984 but before November 1986 provided they were found suitable by the Union Public Service Commission. For this purpose, it requested the Union Public Service Commission to hold a special selection and recommend persons found fit for regular appointments. Accordingly
- D Union Public Service Commission screened and interviewed 119 doctors who had been appointed on an *ad hoc* basis during this period. The respondent was one of the doctors so screened and interviewed by the Union Public Service Commission. The Union Public Service Commission found 105 *ad hoc* doctors fit for regularisation. 14 doctors were found unfit.
- E Accordingly, the services of these 14 doctors were terminated. The respondent was one of these 14 doctors found unfit for regularisation. Accordingly, the appellants by their order dated 9.4.1992 terminated the services of the respondent.

- F The respondent challenged the termination of his services before the Central Administrative Tribunal, Allahabad Bench. The Tribunal by its impugned judgment and order has held that the respondent should have been considered for regularisation only on the basis of his Confidential Reports as was done in the case of Assistant Medical Officers who were covered by the judgment of this Court in *Dr. A.K. Jain's* case (*supra*). The
- G Tribunal further held that until the respondent's case was considered for regularisation on this basis, his services should not be terminated. The appellants have filed the present appeal challenging the order of the Tribunal.

- H The respondent was appointed after 1.10.1984 and hence he cannot

get the benefit of the directions given in *Dr. A.K. Jain's* case (supra). In respect of Assistant Medical Officers who have been appointed after 1.10.1984, the appellants decided to regularise the services of those doctors who were considered suitable for regularisation by the Union Public Service Commission. The Union Public Service Commission took into account the service record of the Assistant Medical Officers and also interviewed them in order to decide their suitability for regularisation. We do not see any reason for finding fault with this process of regularisation.

In the case of *Union of India & Ors. v. Dr. Gyan Prakash Singh*, JT (1993) 5 SC 681 the respondent was appointed as Assistant Medical Officer on 1.10.1984. This Court held that he was not entitled to the benefit of the judgment in *Dr. A.K. Jain's* case (supra) as the judgment governed the cases of Assistant Medical Officers appointed before 1.10.1984. The respondent therein was also given a chance for regularisation along with other Assistant Medical Officers appointed on or after 1.10.1984 and before November 1986. He was one of the 14 Assistant Medical Officers not recommended for regularisation by the Union Public Service Commission in 1992. Like the respondent in the present case, his services were also terminated on 9.4.1992. This Court observed that the direction for manner of regularisation contained in the judgment in *Dr. A.K. Jain's* case (supra) was not meant to benefit any *ad hoc* appointee who was not working on the post of Assistant Medical Officer on 1.10.1984. The Court further held that the respondent therein, not being so entitled, his claim for regularisation could have been based only on the ground available to an *ad hoc* appointee during the period between 1.10.1984 and November 1986. For regularisation, the respondent had to be found fit by the Union Public Service Commission. Since he was found unfit, he could have no grievance against the termination of his services in these circumstances.

The case of the respondent before us is similar to the case of the respondent in *Dr. Gyan Prakash Singh's* case (supra).

The appeal is, therefore, allowed and the order of the Central Administrative Tribunal, Allahabad Bench is set aside. In the circumstances, however, there will be no order as to costs.

G.N.

Appeal allowed.