

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
AND
THE HON'BLE SMT. JUSTICE ANIS

WRIT PETITION NO.5953 OF 2016

DATED:03-03-2016

Between:

The Union of India
Rep. by its Secretary to Government of India
Ministry of Health & Family Welfare
Department of AYUSH, AYUSH Bhavan
B Block, GPO Complex, INA, New Delhi-23
and others ... Petitioners

And

Dr. Kondareddy Sudhakar Reddy
and another ... Respondents

COUNSEL FOR THE PETITIONERS: Mr. B. Appa Rao, for
Mr. B. Narayana Reddy,
Assistant Solicitor General

COUNSEL FOR RESPONDENT NO.1: Mr. B. Pavan Kumar,
for Dr. A. Raghu Kumar

THE COURT MADE THE FOLLOWING:

ORDER: *(per the Hon'ble Sri Justice C.V. Nagarjuna Reddy)*

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This writ petition is filed by the Union of India and its functionaries, feeling aggrieved by order dt.21.7.2015 in O.A. No.760 of 2014, on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad.

We have heard Mr. B. Appa Rao, learned counsel representing Mr. B. Narayana Reddy, learned Assistant Solicitor General, appearing for the petitioners, and Mr. B. Pavan Kumar, learned counsel, representing Dr. A. Raghu Kumar, learned counsel for respondent No.1.

Respondent No.1 applied for the post of Medical Officer, Gazetted, Group 'A' in the Cabinet Secretariat, Sahastra Seema Bal (SSB), in pursuance of an advertisement issued in July, 1992. He was selected and appointed as Medical Officer (Homeo) with effect from 18.11.1997 with a condition of probation for a period of two years. He joined the service at SSB, Jodhpur, in the year 1997, his probation was declared from 17.11.1999 and his services were confirmed with effect from 18.11.1999 by order dt.09.03.2000. Respondent No.1 has worked in the capacity of the Medical Officer in SSB Central Cabinet Secretariat upto 30.04.2007, and while he was working as such, petitioner No.1 vide its order dt.16.03.2006 declared eight posts of Medical Officers (Homeo) as surplus in the DGSSB Organization. Petitioner No.1 has sought willingness of respondent No.1 either for Special Voluntary Retirement Scheme (VRS) or for re-deployment, vide letter dt.05.7.2006, and in reply to the same, respondent No.1 has stated that he is not willing for VRS and instead, he opted for re-deployment, vide his representation dt.20.07.2006. In pursuance thereof, respondent No.1 was offered the post of Medical

Officer (Homeo)/Research Officer (Homeo) in the Central Government Health Scheme (CGHS)/Department of AYUSH, on 13.04.2007 on the recommendation of the Union Public Service Commission and he assumed the charge vide Office Order dt.15.05.2007 of CGHS, Trivendrum.

Petitioner No.1 pleaded that as per O.M. dt.10/13.04.2007, the appointment of respondent No.1 as Medical Officer (Homeo)/Research Officer (Homeo) in CGHS in the Department of AYUSH is on the basis of redeployment, that he would be placed below all the present incumbents and that his inter se seniority among themselves will be determined by the UPSC.

Respondent No.1 made a representation on 13.12.2007 for grant of time bound promotion on completion of seventeen years of combined service in the SSB Secretariat and the CGHS and as no decision in his favour was taken, he has made further representations on 23.1.2009, 20.4.2009, 15.10.2009, 16.9.2010 and 24.5.2012. As no decision was taken on these representations also, respondent No.1 has approached respondent No.2 – Tribunal by way of the above mentioned O.A. He has relied upon the judgment of the Supreme Court in *State of Haryana & Another v. Deepak Sood & Others* in Civil Appeal No.4446/2008 and batch, in support of his claim. On hearing the counsel for both the parties and considering the judgment of the Supreme Court referred to above, the Tribunal has allowed the O.A. with the following observations.

“Having heard both sides counsel and after considering the facts and circumstances of the case, we are of the considered view that this O.A. is squarely covered by the judgment of the Hon’ble Supreme Court in State of Haryana & Another v. Deepak Sood & Others (supra). Hence, this O.A. is liable to be allowed by following the law laid down by the Hon’ble Supreme Court in Civil Appeal No.4446/2008 & Batch. On the other hand, the judgment of the Hon’ble Supreme Court relied on by the respondents in Union of India v. K. Savitri & Ors., is not applicable to the present case inasmuch as the said judgment is on the issue of counting of past service of the redeployed staff for seniority in the new organization.”

The Tribunal has accordingly declared that respondent No.1 is entitled for counting of service as Medical Officer in SSB Cabinet Secretariat from 18.11.1997 to 30.4.2007 for the time bound financial upgradation under Dynamic Assured Career Progression (DACP) Scheme, and accordingly directed the petitioners to consider the case of respondent No.1 for financial upgradation under DACP Scheme by considering his past service from 18.11.1997 to 30.4.2007 as Medical Officer in SSB Cabinet Secretariat.

Learned counsel for the petitioners has not disputed the fact that the judgment in *Deepak Sood* (supra) applies in all fours to the case of respondent No.1. Since the Tribunal has allowed the claim of respondent No.1 based on the said judgment of the Supreme Court, which is squarely applicable to the case of respondent No.1, we do not find any reason to interfere with the order of the Tribunal impugned in this writ petition.

Hence, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, W.P.M.P. No.7561 of 2016 shall stand disposed of as infructuous.

C.V. NAGARJUNA REDDY, J

ANIS, J

03-03-2016

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