

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1) CWP No. 22055 of 2010
Chandigarh Administration and others
.... PETITIONERS

Versus
Dr. Anjali Gupta and others
..... RESPONDENTS

(2) CWP No. 959 of 2011
Dr. Anjali Gupta and others
.... PETITIONERS

Versus
Chandigarh Administration and others
..... RESPONDENTS

(3) CWP No. 10974 of 2014
Administrator, Union Territory, Chandigarh and others
.... PETITIONERS

Versus
Dr. Anjali Gupta and others
..... RESPONDENTS

Date of decision : 21.01.2019

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Pankaj Jain, Advocate,
Senior Standing Counsel for UT Chandigarh, with
Mr. Sanjiv Ghai, Ms. Aakanksha Sawhney, and
Mr. Jaivir Chandail, Advocates,
for Chandigarh Administration.

Mr. Gaurav Rana, Advocate,
for private respondents.
(in CWP No. 22055 of 2010 and 10974 of 2014) and
for the petitioners (in CWP No. 959 of 2011).

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RAJIV SHARMA, J.

1. Since common questions of law and facts are involved in all these three writ petitions, therefore, these are being taken up together and decided by a common judgment.
2. One Dr. Anjali Gupta and others filed Original Application No. 93-CH-2009 before the learned Central Administrative Tribunal, Chandigarh Bench, Chandigarh, seeking direction to the respondents to consider their case in terms of Annexures A-1, A-2 and A-3, annexed with the Original Application, and statutory recruitment rules for regularisation from the date of their initial appointment and to grant them all consequential benefits.
3. The Original Application was contested.
4. The learned Central Administrative Tribunal disposed of Original Application No. 93-CH-2009 vide order dated 17.08.2010.
5. It is in these circumstances that CWP No. 22055 of 2010 was filed by the Chandigarh Administration assailing the order dated 17.08.2010. Dr. Anjali Gupta and others have also filed CWP No. 959 of 2011 against the order dated 17.08.2010 seeking all the consequential benefits.
6. Dr. Anjali Gupta and others had also filed Original Application No. 1399/CH/2012 seeking promotion to the post of Medical Officer. It was allowed by the Central Administrative Tribunal on 13.08.2013. CWP No. 10974 of 2014 has been filed against the order dated 13.08.2013.
7. We have heard learned counsel for the parties and gone through the orders passed by the Central Administrative Tribunal carefully.
8. The brief facts, necessary for adjudication of these petitions, are

that the Chandigarh Administration had issued advertisements vide Annexures A-6 and A-7, annexed with the Original Application. These advertisements were issued strictly in accordance with the recruitment rules and regulations. The respondents participated in the selection process. They were interviewed by a duly constituted Committee. They were offered appointment in the year 1997 on contractual basis. However, the learned Central Administrative Tribunal, after taking into consideration the recruitment and promotion rules, coupled with the fact that the doctors were found suitable, gave findings that the respondents in CWP No. 22055 of 2010, though were appointed on contractual basis, but in fact it should have been on regular basis. The employer was directed to pass appropriate orders for treating them as regular employees from the date of their completion of 10 years in service. Plea taken by the petitioners before the Tribunal was that the corresponding cadre in Punjab was declared dying cadre, thus, the posts could not be filled on regular basis. This plea can not be accepted as the Union Territory is a different entity. It was always open for it to fill up the posts on regular basis instead of filling the same on contractual basis. There is no illegality or perversity in the order of the learned Tribunal. The nomenclature of the post was wrongly marked as contractual, since they had undergone selection process on regular basis. The doctors have gone through the same process which is required to be undergone while filling up the posts on regular basis. The doctors had undergone the same selection process which was meant for appointments on regular basis.

9. Learned Central Administrative Tribunal has taken into consideration a decision of the Hon'ble Supreme Court in Secretary, State of Karnataka & Ors. Vs. Umadevi & Ors., 2006 (4) SCC 1. Learned

counsel appearing on behalf of the petitioners has categorically submitted that the Chandigarh Administration has not relied upon this judgment. Accordingly, CWP No. 22055 of 2010 is dismissed being devoid of merit.

10. In CWP No. 959 of 2011, the respondents are directed to grant all the consequential benefits to the doctors, strictly as per the judgment dated 17.08.2010 by counting their contractual period also for the purposes of seniority, promotion, arrears of salary, fixation of pay etc. CWP No. 959 of 2011 is, accordingly, disposed of.

11. In CWP No. 10974 of 2014, the respondents are directed to consider the case of the respondents as per the directions issued by the learned Central Administrative Tribunal vide order dated 13.08.2013, if already not considered, within a period of three months from today. Consequently, CWP No. 10974 of 2014 is also disposed of.

(RAJIV SHARMA)
JUDGE

January 21, 2019
ndj

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes