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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 3412/2019**

DR SHACHI SRIVASTAVA Petitioner

Through: **Mr. Padma Kumar S, Advocate.**

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

Through: **Ms. Avnish Ahlawat, Standing
Counsel along with Mr. Nitesh Singh
& Ms. Ankita Ahuja Singh,
Advocates.**

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

04.04.2019

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CM Nos. 15682-15683/2019

1. Exemption allowed, subject to just exceptions.
2. The applications stand disposed of.

W.P.(C) 3412/2019

3. Issue notice. Counsel for respondents accepts notice.
4. The petitioner has raised a limited grievance in respect of the order dated 27.03.2019 passed by Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 3920/2017. The petitioner was appointed as Senior Resident (Ophthalmology) (teaching post) at Lok

Nayak Hospital vide a letter dated 28.11.2016. The said Senior Residency of the petitioner was for a period of one year, which was extendable up to three years. The respondents did not extend the same on the premise that the petitioner had already served as Senior Resident in Deep Chand Bandhu Hospital, and if that period had to be added, she had completed three years of Senior Residency.

5. The case of the petitioner was that the Senior Residency at Deep Chand Bandhu Hospital was not on a teaching post and that it was on a non-teaching post. The petitioner contended that the Senior Residency in a non-teaching post could not be looked at for the purpose of computing her entitlement to serve as a Senior Resident in a teaching post. The petitioner also contended that for applying for the post of Assistant Professor, it was essential for her to serve as a Senior Resident in a teaching post for three years. The petitioner was aggrieved on account of non-extension of her Senior Residency in a teaching post when the respondent issued a fresh advertisement to fill the post of Senior Resident in a teaching post and approached the Tribunal.

6. The petitioner relied upon an earlier decision of the Tribunal in ***Dr. Rajeev Kumar Vs. Union of India***, O.A. No. 2868/2009 which was allowed by the Tribunal on 14.09.2010. In that case, the Tribunal had held that the Senior Residency in a non-teaching post could not be counted while considering the tenure for which the applicant was entitled to serve in a teaching post. Premised on the aforesaid decision in ***Dr. Rajeev Kumar*** (supra), the Tribunal allowed the Original Application and issued the directions as follows:

“8. Probably, the aforesaid judgment was the reason for the applicant of this OA to be allowed to continue as a Senior Resident on the first day of institution of this OA, i.e., 09.11.2017 and the coordinate Bench of this Tribunal had directed that “the applicant shall be allowed to continue as Senior Resident till further orders”. Hence, we direct the respondents to now pass a detailed and speaking order with regard to the total period for which the applicant has completed her service under the category of Senior Resident and in case, she has not completed the period of Senior Residency as per the Government Scheme, she may be permitted to complete the said period. Accordingly, the OA stands disposed of. No order as to costs.”

7. The submission of learned counsel for the petitioner is that the aforesaid direction needs to be clarified by clearly stating that the respondent should compute the total period for which the petitioner has completed her service in the category of Senior Resident in a teaching post. If this clarification is not issued, the respondent would again club her experience as Senior Resident in teaching and non-teaching post and not permit the petitioner to acquire three years experience which is essential for her future progression.

8. In the light of the decision in ***Dr. Rajeev Kumar*** (supra), which appears to have attained finality, we are of the view that the petitioner's grievance is justified. We, therefore, clarify the direction issued by the Tribunal in the aforesaid terms while computing the petitioner's past experience as Senior Resident. The experience gained by her as a Senior Resident in a teaching post should be taken into account to determine whether she is deserving of further extension for the remaining period so that she is able to acquire three years experience as a Senior Resident in a teaching post.

9. With the aforesaid clarification, the petition stands disposed of.

VIPIN SANGHI, J

REKHA PALLI, J

APRIL 04, 2019
B.S. Rohella