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

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Date of Decision: September 27, 2023

+ W.P.(C) 11898/2023 & CM APPL.No.46472/2023

UNION OF INDIA AND ORS.

..... Petitioners

Through: Mr.Piyush Beriwal, Ms.Disha
Choudhary and Ms.Anandita
Aggarwal, Advocates.

versus

DR. SHALINI JAIN

..... Respondent

Through: Mr.Pawanjit Singh Bindra,
Sr.Advocate with Mr.Lakshay
Dhamija, Advocate along with
respondent in person.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

V. KAMESWAR RAO (ORAL)

CM APPL. Nos. 46473-46474/2023

1. Exemptions allowed, subject to all just exceptions.

2. Applications stand disposed of.

W.P.(C) 11899/2023 & CM APPL.No.46472/2023(stay)

1. The challenge in this writ petition is to an order dated February 07, 2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter, referred to as the 'Tribunal') in OA No.2089/2022



whereby the Tribunal has disposed of the said OA by stating in paragraph 5.2 and 5.3 as under:

“5.2 In view of the above discussion, the impugned order dated 25.03.2022 is quashed and set aside to the extent it contains a rider that ‘no request for extension of appointment beyond six months on contract basis or a fresh request for contract appointment will be entertained’. The respondents are further directed to continue the applicant in service on contract basis till a regularly appointed doctor becomes available.

5.3 Insofar as the relief of regularization is concerned, the respondents are at liberty to consider the applicant’s case in case she applies and is otherwise found eligible as per rules.”

2. The submission of learned counsel for the petitioners is by drawing our attention to paragraph 2(O) and (P) of the present writ petition wherein the following has been stated:

“O. That requisition for the vacant posts of ENT was submitted to UPSC. The recruitment has been finalized and regular candidates will be available shortly.

P. That 2 regular ENT specialists in place of respondent have already been presently posted.”

3. According to learned counsel for the petitioners, as the recruitment for a regular appointment is in the process of being finalized, the continuance of the respondent is uncalled for. Even otherwise two regular ENT specialists are already posted and as such there is no requirement for a further contractual appointment. In view of such a stand, we dispose of the writ



petition by directing, the petitioners shall consider as to whether the contractual appointment of the respondent needs to be continued till a regular incumbent is appointed. If the decision is in affirmative, respondent's services as a contractual employee shall be continued till a regular incumbent is appointed. If it is otherwise, the respondent shall have no right to continue as a contractual employee. The above decision shall be taken within a period of four weeks from today.

4. Though a plea has been taken that the respondent is over age and as such cannot be continued, we are of the view that since the petitioners have themselves appointed the respondent on contractual basis, such a plea at this stage cannot be accepted though the over age can be a bar for the purpose of a regular appointment, but the respondent is not seeking a regular appointment.

5. With the above clarification, the petition is disposed of along with pending application.

V. KAMESWAR RAO, J.

ANOOP KUMAR MENDIRATTA, J.

SEPTEMBER 27, 2023/v