

(2020) 03 CAT CK 0056

In the Central Administrative Tribunal

Case No : Original Application No. 700 Of 2020, Miscellaneous Application No. 887 Of 2020

Dr. Shyam Kishore

APPELLANT

Vs

Commissioner And Others

RESPONDENT

Date of Decision : 12-03-2020

Acts Referred:

Citation : (2020) 03 CAT CK 0056

Hon'ble Judges : L. Narasimha Reddy, J;A. K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : Ambika Ray

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant was selected as General Duty Medical Officer by the Municipal Corporation of Delhi (MCD) and was issued offer of appointment on 25.06.1997. However, at that time, the applicant was pursuing Post Graduate Medical Course. He made a request that he be given an opportunity to join the duty on completion of the course. On 03.04.2000, the applicant is said to have expressed his willingness to accept the offer. Since the respondents did not accede to the request, he filed WP(C) No.5286/2001 before the Hon'ble High Court of Delhi. The Writ Petition was allowed on 07.05.2002 and the Corporation was directed to issue letter of appointment to the applicant. Accordingly, he was issued letter of appointment on 27.09.2002.

2. The applicant made a representation, with a request to count his service from 03.04.2000. That was rejected through an order dated 26.02.2019. He filed this OA with a prayer to set aside the order dated 26.02.2019, and to direct the respondents to count his service, from the date, on which he expressed his willingness to join the duty i.e. 03.04.2000.

2. We heard Shri Ambika Ray, learned counsel for applicant, at the stage of

admission.

3. It is not in dispute that the applicant was issued offer of appointment way back on 25.06.1997. However, it was he, who delayed the acceptance, on the ground that he is studying the Post Graduate Medical Course. It was only on 03.04.2000, that he expressed his willingness to accept the offer. He approached the Hon'ble High Court of Delhi, when the respondents did not issue him letter of appointment. The Writ Petition was allowed and following direction was issued :-

"In view of the aforesaid the decision taken by respondent No.3 Commission vide letter dated 9.1.2001 is quashed and respondent No.3 Commission is directed to forward the dossier of the petitioner to respondent No.1 corporation treating it as a case of revival of offer of appointment submitted within the period of three years. The dossier should be so forwarded within a period of three weeks. A writ of mandamus is issued to respondent No.1 corporation to thereafter issue the appointment letter to the petitioner to the posts of GDMO-II in terms of the policy within a period of two weeks thereafter."

4. Accordingly, he was appointed on 27.09.2002. It is just un-understandable as to how the applicant can expect to be in service, earlier to a date, on which he was appointed. The question of counting any period towards service before the person is appointed; does not arise. In case the applicant is of the view that the appointment should be effective from the date, on which he accepted the offer of appointment, a relief ought to have been claimed in the Writ Petition itself. Having not done so, he cannot pursue the remedies, at this point of time, that too, through a separate set of proceedings. The principle of constructive res judicata, comes into play.

5. We do not find any merit in the OA and the same is, accordingly, dismissed.

Pending MAs, if any, shall stand disposed of.

There shall be no orders as to costs.