

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

IA 7/2006 In CIVIL APPEAL NO. 5448 OF 1998

VIDHYADHAR SHARMA

Appellant (s)

VERSUS

STATE OF UP & ORS
(For directions and office report)
With

Respondent(s)

I.A. NO. 3 IN CIVIL APPEAL NO. 5452 OF 1998
(For directions)

Date: 28/04/2009 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE R.M. LODHA

For Appellant(s) Mr. Anish Ahmad, Adv.
Mr. Balraj Dewan, Adv.

For Respondent(s) Mr. Dinesh Dwivedi, Sr. Adv.
Mrs. Niranjana Singh, Adv.
Mr. Abhishek Chaudhary, Adv.

UPON hearing counsel the Court made the following
ORDER

I.As. No. 7 & 3 are disposed of in terms of the signed
order.

[Charanjeet Kaur]
Court Master

[Vijay Dhawan]
Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

I.A. No. 7 In
CIVIL APPEAL NO. 5448 OF 1998

Vidhyadhar Sharma

.. Appellant(s)

Versus

State of UP & Ors.

.. Respondent(s)

WITH

I.A. No. 3 In CIVIL APEPAL NO. 5452 OF 1998

ORDER

By these two applications filed in civil appeal Nos. 5448 and

5452 of 1998, the applicant has prayed for the following directions :

i) fix the seniority of the applicant/appellant in accordance with the order dated 26.2.2001 passed by the Hon'ble Supreme Court in Contempt Petition Nos. 57-58 of 2001 titled "Vidhya Dhar Sharma vs. G.B. Patyanak and Others";

ii) direct the respondents to regularize the applicant/appellant to the post of Medical Officer (community Health) as the respondents regularised the remaining similarly circumstanced adhoc Medical Officers (Community Health);

iii) direct the respondents to pay the arrears of salary to the applicant/appellant w.e.f. February, 1997 till 07.11.2002;

iv) any other or further order which this Hon'ble Court deems fit and proper under the facts and circumstances of the case may also be passed in favour of the applicant/appellant and against the respondents.

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We have heard learned counsel for the parties.

Learned counsel for the applicant states that since the services of the applicant have already been regularised only the issues with regard to fixation of seniority and payment of arrears of salary survive for consideration.

Mr. Dinesh Dwivedi, learned senior counsel appearing for the respondents submits that the entire amount of salary due to the applicant w.e.f. 8th November, 2000, has since been paid. It is urged that for the purpose of pension the date of his regular appointment as medical officer has been taken as 1st February, 1997, i.e., the date on which the services of the applicant were terminated.

Learned counsel appearing for the applicant on the other hand, submits that for the purpose of his seniority, the relevant date has to be the date of his initial selection, i.e. 30th June, 1988 and not the date of termination.

Having examined the rival stands in the light of order dated 26th February, 2001, we are of the view that insofar as the payment of arrears of salary to the applicant is concerned, it has been correctly paid w.e.f. 8th November, 2000 and, therefore, no further relief on that score can be

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granted to him. As regards the question of the relevant date for the purpose of fixation of his seniority, we feel that the issue is rendered academic because of the superannuation of the applicant. Therefore, any direction at this juncture is unnecessary.

Insofar as the question of either payment of pension or fixation of the relevant date for the said purpose is concerned, having glanced through the two orders dated 22nd September, 2000 and 26th February, 2001, we feel that this issue was not the subject matter of the said two orders and, therefore, no orders in that behalf are called for. If the applicant has any grievance on that account, it is open to him to take recourse to an appropriate remedy as may be available to him in accordance with law.

With these observations, the applications stand disposed of.

.....J.
[D.K. JAIN]

[R.M. LODHA]

.....J.

NEW DELHI,
APRIL 28, 2009.