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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

M.A.NO. 537/2003 & M.A.NO.538/2003 IN
C.P.NO.25/2003 IN O.A.NO.1470/2002

Thursday, this the 27th day of March, 2003

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Mr. Govindan S. Tampi, Member (A)

Shri V.K.Saxena
s/o Late Shri Laxmi Narain Saxena
r/o B-8/1073, Vasant Kunj, New Delhi-70
..Applicant
(By Advocate: Shri S.C.Saxena)

Versus

1. Shri S.K.Naik
Secretary
Ministry of Health & Family Welfare
Nirman Bhawan, New Delhi-11
2. Dr. S.P.Agarwal
Director General of Health Services
Govt. of India
Nirman Bhawan, New Delhi-11
..Respondents

(By Advocate: Shri Maninder Singh, learned counsel
~~with~~ Shri Madhav Panikar, learned counsel)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, VC (J):-

We have heard Shri S.C.Saxena, learned counsel for applicant and Shri Maninder Singh, learned^{Sr} counsel for respondents in MA-537/2003 and MA-538/2003 in CP-25/2003.

2. We note from Tribunal's order dated 16.1.2003 that noting certain submissions made by Shri S.C.Saxena, learned counsel for applicant that "nothing has been done in this case" with respect to the orders of the Tribunal dated 31.5.2002 in OA-1470/2002, notices were issued to the respondents on CP-25/2003, returnable on 18.2.2003. That is how Contempt Petition was came to be registered as CP-25/2003 and notices issued. Earlier, when the respondents had filed MA-127/2003 and MA-128/2003, it has been noticed in Tribunal's order dated 16.1.2003, inter

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alia, that time granted by the Tribunal in OA-1470/2002 was over on 17.12.2002. Respondents had filed MA-127/2003 on 10.1.2003 seeking extension of time along with MA-128/2003. It is relevant to note that on that date, none had appeared for the respondents even on the second call and the order has been passed based solely on the submissions made by Shri S.C.Saxena, learned counsel.

3. Shri Maninder Singh, learned ^{Sr.} counsel has brought to our attention the letter issued by the respondents dated 20.12.2002, copy placed on record. This letter had been issued by the respondents prior to the order of the Tribunal dated 16.1.2003 in which notices were issued on CP-25/2003. This is a letter from the Presenting Officer in the pending disciplinary proceedings against the applicant in which the relevant portion reads as follows:-

"This has reference to the subject mentioned above. Shri V.K.Saxena had been advised by undersigned vide letter dated 3rd December and 5th December, 2002 to visit the vigilance section for inspection of the documents prior to 16th December, 2002 as the compliance report was required to be reported before the next date of hearing i.e. 20th December, 2002. It is understood from vigilance section that Shri Saxena has not visited the section for inspection of the documents.

In the meanwhile, photocopies of the documents listed in the charge sheet issued to Shri V.K.Saxena have been taken and are being sent to him."

4. Learned counsel for applicant has submitted that he has received the photocopies of the relevant documents mentioned in the charge-sheet issued to him. He has, therefore, contended that the averments of the respondents

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in MA-538/2003, especially in the prayer clause that they be permitted to supply extracts and/or documents to the delinquent officer, is incorrect.

5. We find from the facts stated above that it appears that certain averments in MA-538/2003 with regard to further supply of extracts of relevant documents to the applicant are ~~erroneous~~ ^{otiose} in view of the aforesaid letter issued by the respondents dated 20.12.2002. It is further relevant to note that the learned counsel for applicant himself states that he has got the relevant documents mentioned in the charge-sheet, which have been sent to him in the afore-mentioned letter.

6. We note that in the order dated 16.1.2003, no specific order has been passed on MA-128/2003 praying for condonation of delay. Part of MA-537/2003 is for the same purpose, bringing out the reasons for the delay on the part of the respondents in filing MA for extension of time. In the facts of the case, ^{we} ~~noting~~ ^{also} also the circumstances in which the Tribunal's order dated 16.1.2003 had been passed based on the submissions of the learned counsel for applicant, who had apparently failed to inform the Tribunal that certain actions have indeed been taken by the respondents, including letter dated 20.12.2002. In these circumstances, the submissions made by the learned counsel for applicant that "nothing has been done in this case" is totally incorrect and he ought to have brought to the notice of the Tribunal the letter issued by the respondents by which the relevant documents, i.e., annexures to the charge-sheet, have been sent to him. In

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this letter, it is also noticed that the applicant had been informed and he has visited the vigilance section for inspection of the relevant documents prior to 16.12.2002, i.e., prior to the expiry of the period of six months granted by the Tribunal and, therefore, we see no reason why, in the circumstances of the case, the applicant should have submitted before the Tribunal on 16.1.2003 that "nothing has been done in this case" by the respondents in the meantime.

7. Taking into consideration the totality of the facts and circumstances of the case and the afore-mentioned reasons, we, therefore, consider it appropriate, in the interest of justice, to allow MA-538/2003. The respondents are granted ¹²time upto three months, i.e., upto 30.6.2003 to complete the disciplinary proceedings, making it clear that no further time shall be granted. In the circumstances of the case, the apology tendered by the respondents is accepted and CP-25/2003 is dropped. Notices to the alleged contemnors are discharged. Accordingly, MA-537/2003 is also allowed.

(Govindan S. Tampi)
Member (A)

/S. Anil/

(Mrs. Lakshmi Swaminathan)
Vice Chairman (J)