

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO.1493/2002

This the 11th day of July, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

Dr. L.C.Gupta,
Specialist Forensic Medicine,
Head of Department & Incharge Mortuary,
Lal Bahadur Shastri Government Hospital,
Khichripur,
Delhi-100091.

... Applicant

(By Dr. K.S.Chauhan with Shri Chand Kiran and Dr. K.P.S.
Dalal, Advocates)

-versus-

1. Govt. of NCT of Delhi through
its Chief Secretary,
Delhi Secretariat, IP Estate,
New Delhi-110002.
2. Govt. of NCT of Delhi through
its Principal Secretary (Health &
Family Welfare), Delhi Secretariat,
IP Estate, New Delhi-110002.
3. Dr. Bharat Singh,
formerly Consultant for Monitoring the
Hospital Construction Works,
Department of Health & Family Welfare,
Govt. of NCT of Delhi, 9th Floor, Wing B,
Delhi Secretariat, IP Estate,
New Delhi-110002.
4. Dr. B.S.Banerjee,
Additional Secretary,
Department of Health & Family Welfare,
Govt. of NCT of Delhi, 9th Floor, Wing B,
Delhi Secretariat, IP Estate,
New Delhi-110002.
5. Director,
Directorate of Health Services,
Govt. of NCT of Delhi,
17, Karkardooma,
Delhi-110092.

... Respondents

(By Shri Ajesh Luthra, Advocate)

O R D E R

Applicant has challenged order dated 22.5.2002
whereby he has been transferred to RTRM.

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2. The learned counsel of applicant has made allegation of mala fide against Dr. Bharat Singh, respondent No.3, stating that applicant had refused to finalise the post-mortem report of one Kavita Soni in accordance with his wishes to suit the police in criminal case to benefit a private nursing home. Drawing my attention to Annexure A-2 dated 6.10.1998, the learned counsel stated that applicant was appointed on the post of Junior Specialist (Forensic Medicine) and that he has been working in LBS Hospital where facilities for post-mortem and functioning as a forensic expert exist. The learned counsel further brought to my notice Annexure A-9 Colly. dated 27.4.2000 whereby work relating to post-mortem and medico legal examination was redistributed in the hospitals in the National Capital Territory of Delhi. He pointed out that RTRM is not mentioned among such hospitals. He further referred to notification dated 10/22.5.2001 (A-9 colly.) again relating to redistribution of medico legal case work in various hospitals in Delhi to contend that this notification also does not mention anything about RTRM.

3. The learned counsel of respondents stated that applicant who has been working in LBS Hospital, Khichdipur as Junior Specialist (Forensic Medicine) sought transfer in the vicinity of his residence (Uttam Nagar), preferably Deen Dayal Upadhyay Hospital. However, since RTRM Hospital, Jafarpur, is required to have a mortuary as per the government orders of maintaining one in each and every 100-bedded hospital and

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keeping in view applicant's request for transfer near his residence and to avail of his experience, it was found administratively prudent to post him at RTRM Hospital for facilitating establishment of mortuary in public interest. In support, the learned counsel drew my attention to Annexure R-3 dated 4.6.2002 attached with the reply submitted on behalf of respondents 1, 2, 4 and 5, on the subject, "Status of Mortuary at RTRM Hospital", where two posts of Specialists (Forensic Medicine) are stated to be vacant. The learned counsel stated that whereas the mortuary building at RTRM is ready for functioning, efforts are being made to sanction manpower for the same. Transfer order of applicant is to fill up one such vacant post. Unless Specialists are provided there, the new mortuary cannot function. The learned counsel also referred to Annexure A-8 dated 1.8.2001 stating that applicant has enclosed incomplete document to contend that it relates only to local/autonomous bodies and not the Government. He filed a complete copy of memorandum dated 1.8.2001 issued by the Government of N.C.T. of Delhi, Finance (Budget) Department on the subject of "Economy in Plan and Non-Plan Expenditure". He stated that instructions contained therein are applicable not only to local/autonomous bodies and grantee institutions but also to the Government departments. The learned counsel further stated that there are no allegations of mala fide against respondent No.2, i.e., Principal Secretary (Health & Family Welfare). Dr. Bharat Singh, respondent No.3 is only a consultant for monitoring hospital construction works and is not connected with the transfers and postings of

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doctors.. He stated that Kavita Soni had died on 7.8.1999. Applicant had conducted post-mortem on her. Applicant was summoned by respondent No.4 along with his comments in an enquiry into the delay in completing investigations of the death of Kavita Soni and an affidavit was required to be filed in the High Court of Delhi in CWP No.935/2000 : Vikas soni v. State. When applicant himself states that he had finalised the post-mortem report on 9.8.1999 and submitted it without delay, there was no question of any further finalization of the post-mortem report by him. As a matter of fact an enquiry committee had been constituted to pin point the cause of death which submitted its report on 4.9.2001 (learned counsel submitted a copy of the enquiry committee's report). He stated that when an enquiry committee had been constituted to further examine the post-mortem report to ascertain the cause of death, applicant's role had finished.

4. I have gone through the detailed O.M. dated 1.8.2001 on economy in Plan and Non-Plan Expenditure. Its narrative establishes that it deals with the Government and not only with autonomous bodies/institutions. As such, the assertion of the learned counsel of applicant that it relates only to autonomous bodies and institutions is unacceptable. I am also not in agreement with the learned counsel of applicant that he had been asked by the concerned authorities to modify or finalise the post-mortem report of Kavita Soni. Government had constituted an enquiry committee which had submitted its report on the death of Kavita Soni on



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4.9.2001. Clearly applicant had become functus officio after constitution of the enquiry committee to go into the question of death of Kavita Soni.

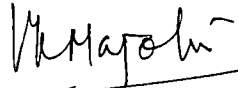
5. Dr. Bharat Singh was a consultant for monitoring the hospital construction works as per the memorandum of parties itself. It is difficult to visualise that he can have any role in the posting and transfer of Specialists. Applicant has not alleged any mala fide against the Principal Secretary (Health & Family Welfare).

6. True, as per Annexure A-9 colly. memoranda dated 27.4.2000 and 10/22.5.2001, RTRM where applicant has been transferred is not mentioned while these memoranda relate to redistribution of medico legal case work in various hospitals in Delhi. However, Annexure R-3 dated 4.6.2002 does mention that mortuary is being established at RTRM Hospital in which two posts of Specialists (Forensic Medicine) are vacant. It is not necessary that only fresh appointees should be posted in these posts. Existing Specialists can be transferred by the government to man these positions to make the mortuary functional. It may be that the mortuary at RTRM Hospital does not have the equipment at present. It is not necessary that equipment must precede staff.

7. Having regard to the above discussion, I do not find any infirmity in the impugned order.

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8. The OA is dismissed accordingly, however, without any order as to costs. It goes without saying that interim order dated 25.6.2002 stands vacated.



(V. K. Majotra)
Member (A)

/as/