

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 3061 of 2001

New Delhi, this the 18th day of September, 2002

HON'BLE MR. KULDIP SINGH, MEMBER (JUD.)

(12)

1. Dr. Vinod Khosla
D/o Sh.A.P. Khosla
Aged 32 years
C-A3, Mahavir Enclave,
Palam Dabri Road,
New Delhi-110045.

2. Dr. Ashok Verma
S/o Dr. M.C. Verma
Aged 37 years,
WZ-6-B, Naraina Village,
New Delhi-110 028.

3. Dr. Seema Bhola
W/o Shri Rajiv Kumar Bhola
Aged 32 years
Sector-2 Pocket 4,
Flat No.63, Rohini,
New Delhi.

APPLICANTS

(By Advocate: Ms. Arati Mahajan)

Versus

1. Union of India
through Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.

2. Inspector General of Prison,
Central Jail,
Tihar,
New Delhi-110 064.

3. Additional Director General of Prisons,
Near Lajwanti Garden Chowk,
Janak Puri,
New Delhi.

4. Lt. Governor of Delhi,
Raj Niwas,
5, Sham Nath Marg,
Delhi-110 054.

5. Dr. Preeti
Working as Homoeopathic Physician in
Tihar Central Jail,
New Delhi
R/o 13, J. Vashishth Park,
Pankha Road,
New Delhi-110 046.

km

(13)

6. Dr. Ankush Budhiraje
working as Homoeopathic Physician in
Tihar Central Jail, New Delhi
R/o G-18 House No.18,
Sector-15, Drain Road, Rohini,
New Delhi-110 085.

-RESPONDENTS

(By Advocate: Shri George Paracken)

ORDER OF THE COURTBy Honourable Mr. Kuldip Singh, Member (Jud)

This OA has been filed jointly by three applicants who have sought for the following reliefs:-

(i) Quashing the order No.F.21(203)/AO/ADG(P)/2937-2950 dated 5.2.2001 vide which the services of the applicants were terminated.

(ii) Directing the respondents to reinstate the applicants as Homoeopathic Physicians w.e.f. 6.2.2001, i.e., the date of their illegal disengagement.

(iii) Direct the respondents to regularise the services of the applicants as Homoeopathic doctors in the posts which are already available, from the dates of their initial appointment with the respondents.

2. The applicants claim that they were appointed as Homoeopathic Doctors in Tihar Jail by respondent No.2 in the meeting called on 12.6.1993 after they were duly selected by a competent panel and were also subsequently subjected to another interview on 9.4.94 and 4.4.1994 respectively. The applicants started working w.e.f. 31.6.1993 but they were paid only conveyance charges.

Km

However, they were required to perform all the duties of regular doctors which included performing night duties, maintaining stock registers, working out annual requirements of etc.

3. They further claim that they are fully qualified as Homoeopathic doctors though initially they were appointed to attend the jail inmates for 2 hours in shifts but subsequently working hours were increased to 6 hours per day. There had not been any complaint about the work they had been performing. They were doing the work to the entire satisfaction of their superiors but subsequently this arrangement has been discontinued though two of the juniors are being retained but the applicants have been removed from service, so the applicants have asked for prayers, as stated in para 1 above.

4. The respondents are contesting the OA. The respondents in their reply pleaded that the applicants are not the Government servants nor they hold any civil post so the Tribunal has no jurisdiction to entertain the present OA and the same is liable to be dismissed on this ground alone.

5. The respondents further plead that the applicants were earlier rendering voluntary services of Homoeopathic physicians in Central Jail and they were paid only conveyance charges. They were never appointed by the Prison Department, Government of Delhi since there is a large number of Prisoners in the Tihar Jail so in order to augment the medical facilities it was felt

km

necessary to introduce Homoepathy and Ayurvedic system of medicine apart from the Allopathy and it was decided to take the services of voluntary NGO doctors and it was also decided that they were paid only conveyance charges at the flat rate of Rs.100/- per day after rendering honorary services. Department called for application from interested doctors and six doctors were identified for rendering service to the prisoners were well aware that this is purely a temporary arrangement with no future promise of accommodating them in the Government service and they were also informed accordingly on their first day of service itself.

6. It is denied that the applicants were asked to perform the duties of regular Homoeopathic Physician so they had no claim for regularisation, so the be dismissed.

7. I have heard the learned counsel for the parties and gone through the records of the case.

8. The documents annexed with the OA itself show that the then Inspector General of Prisons who had better health services to the Jail Inmates called a meeting of the doctors and discussed with them about their arrangements. Minutes of the meeting were also recorded on 12.6.93 which show that all the doctors had agreed to come on visit and it was made clear to them that they would be entitled for conveyance charges as per the rules and all the doctors had also indicated their availability timings with days and hours for providing

for

services to the jail prisoners. On this arrangement, the doctors continued to provide their services to the jail inmates.

9. From these documents it is quite manifest that neither there was any post available in the prison department for appointment of these doctors and it seems that the then In-charge Prison had also not bothered to take prior sanction for creation of any post or even for making this type of arrangement from any other competent authority. It was the brain child of the then Inspector General of Prison itself to make this arrangement which clearly indicates that it was of a voluntary nature and only a conveyance allowance was to be provided to the visiting doctors to visit the jail and provide their services to Jail inmates and it did not have even any provision of regular appointment being given by the department of prisons or of the office of the Inspector General of Prisons. The documents only suggest that a homoeopathic doctors of their own probably intended to serve the Jail authorities and had offered voluntary services to the prison authorities and now the doctors claim that this conveyance allowance itself was salary and they had been interviewed by a regular panel including the then Inspector General of Prisons and it was sort of a appointment being given to the applicants, if not regular appointment, then at least ad hoc appointment or appointment of a contractual nature.

10. When their arrangement of visiting the jail has been snapped the applicants have treated the same as as if their services had been terminated and have come to

km

this court seeking quashing of so called termination orders whereas, in fact, this is not a termination order at all rather it is a snapping of arrangement vide which the applicants used to visit the Jail and provide their services on voluntary basis to the Jail inmates. It was a sort of NGO rendering social service to the jail inmates and it appears that even the then Inspector General of prison in order to augment this social cause of providing medical facilities to the jail inmates have scheduled all the rules and regulations of the Jail and gone out of the rules to make the services of these doctors available to the jail inmates.

11. It is a common knowledge that in the Union Territory of Delhi the doctors working in the Central Jail of Delhi are being provided from the CHS medical services who are appointed by selection through UPSC and are posted in Tihar Jail to provide medical services to the Jail Inmates and thus doctors of any other discipline whether Allopathy, Homeopathic or Ayurvedic or any other type of medical treatment who are not provided by the CHS are only of a voluntary type of service, which cannot be termed as regular. The manner in which the then Inspector General had availed the services of these doctors cannot be said to be at all, if the doctors had been appointed by the department of prisons in any recognised manner. The recruitment of doctors was thus not made on regular, ad hoc or contractual basis.

12. Thus I am of the considered opinion that the arrangement so made by the jail authorities was totally illegal in violation of the established rules and the



(18)

applicants cannot claim any benefit to seek regularisation/reinstatement of even continuing with the same arrangement through this OA.

13. Hence, OA does not call for any interference and the same is dismissed. No costs.



(KULDIP SINGH)
MEMBER (JUDL)

Rakesh