

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

CP No.164/2004 in
MA No.1586/2004
MA No.1291/2004
OA No.3428/2001

New Delhi this the 9th day of August, 2004.

HON'BLE MR. V.K. MAJOTRA, VICE-CHAIRMAN (ADMNV)
HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Dr. R.K. Srivastava,
Plastic Surgeon,
Dept. of Burns & Plastic Surgery,
Safdarjung Hospital,
New Delhi-110 029.

-Applicant

(By Advocate Shri S.K. Sinha)

-Versus-

1. Sh. J.V.R. Prasad Rao,
Secretary,
Government of India,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi.

2. Dr. S.P. Agarwal,
Director General of Health Services,
(M.H. Section),
Nirman Bhawan,
New Delhi-110 001.

3. Dr. R.N. Salahn,
The Medical Superintendent,
Safdarjung Hospital,
New Delhi-110 029.

-Respondents

(By Advocates Shri V.S.R. Krishna and Sh. S.M. Arif)

O R D E R

By Mr. Shanker Raju, Member (J):

Applicant presses CP and MAs as well. By an order dated 21.5.2003, OA-3428/2001 was disposed of with the following directions:

"(a) the applicant would be entitled to the pay and allowances of the post of Plastic Surgeon (lowest in the grade) from 27.6.1997 to 26.6.1998; and

(b) the arrears in this regard should be paid to the applicant preferably within a period of six months from the date of receipt of a copy of this order."

(6)

2. As the directions remained unimplemented, CP was filed by applicant and the notices were issued to the respondents.

3. MA-231/2004 filed by respondents, seeking extension of time to implement the directions, was allowed on 3.2.2004 extending the time by three months from 3.2.2004.

4. Meanwhile, respondents preferred WP(C) No.10724-26/2004 before the High Court of Delhi wherein by an order dated 12.07.2004 the following order has been passed:

"There is no ground to interfere with the reasoned order of the Tribunal and do not also appreciate that after passing the impugned order petitioner filed an application to implement the direction of the Tribunal and after obtaining three months' time from the Tribunal to comply with the direction of the Tribunal this writ petition has been filed in this Court. Said fact has not been mentioned in the writ petition. A copy of the said order has been shown to us in Court by the counsel for the respondent. Copy of the order be placed on record. Dismissed."

5. Respondents now contend that the directions stood complied with. Arrears have been calculated by an order dated 2.8.2004 and a cheque has been drawn of the amount due on 4.8.2004.

6. Shri S.K. Sinha, learned counsel for applicant, however, presses MAs on the ground that respondents who had undertaken to comply with the directions by 3.5.2004, on affirmation of the decision of

the Tribunal by the High Court of Delhi had acted mischievously by not apprising the High Court of the undertaking given before the Tribunal to comply with the directions. Accordingly, CWP was dismissed. In this view of the matter it is contended that as respondents have abused the process of law, they are to be burdened with the cost of litigation and interest as well. Applicant has incurred an amount of Rs.30,000/- towards legal expenses.

7. We have carefully considered the rival contentions of the parties and perused the material on record. It is trite law that in a contempt no new direction can be issued, creating a right in favour of the parties. However, Rule 24 of the Central Administrative Tribunal (Procedure) Rules, 1987, empowers the Tribunal to issue such orders and directions which are necessary or expedient to prevent abuse of process of law or to secure ends of justice.

8. Respondents who had undertaken before this Tribunal to comply with the directions by 3.5.2004 had exercised their right of appeal but had withheld this fact from the High Court. Accordingly, upholding the directions of the Tribunal CWP has been dismissed. No justification has come-forth for delay in payment of arrears to applicant from 3.5.2004 to 2.8.2004. In this view of the matter respondents are liable to pay simple interest @9% p.a. on [Ae amount of Rs.94,103/- w.e.f. 3.5.2004 till 2.8.2004. The aforesaid payment shall be made within a period of one month from the date of receipt of a copy of this order.

(8)

9. With this, CP and MAs stand disposed of. Notices are discharged.

S.Raju
(Shanker Raju)
Member (J)

"San."

V.K.Majotra
(V.K. Majotra)
Vice-Chairman (A)

9.8.04