

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH.

C.P. No.287/2002
IN
O.A. No.1401/2001

New Delhi, this the 6th day of January, 2003

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri V. Srikantan, Member (A)

Shri Shashi Bhushan Singh
Audiometric Assistant
Maulana Azad Medical College
Delhi.Petitioner
(By Advocate : Shri Mohit Madan, learned proxy counsel
for Mrs. Avnish Ahlawat)

Versus

1. Shri S.K. Naik
Secretary,
Ministry of Health & Family Welfare,
New Delhi.
2. Shri S.M. Aggarwal,
Secretary (Medical & Public Health)
Govt. of NCT of Delhi,
A-905, Indraparastha Sachivalaya,
New Delhi.
3. Shri Sushil Kumar,
Dean, Maulana Azad Medical College,
Delhi.

....Respondents
(By Advocate : Mrs. Sumedha Sharma for R-2 & R-3
Shri M.M. Sudan, for R-1)
Shri , Principal Secretary,
Ministry of Health & Family Welfare,

ORDER (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J) :

Heard Shri Mohit Madan, learned proxy counsel for
Mrs. Avnish Ahlawat, learned counsel for the
petitioner and Mrs. Sumedha Sharma, learned counsel
for Govt. of NCT of Delhi and Shri M.M. Sudan,
learned counsel for Central Govt.

2. We have heard Shri Mohit Madan, learned proxy
counsel for Mrs. Avnish Ahlawat, learned counsel for
the petitioner. Shri Mohit Madan, learned counsel
very vehemently contends that respondents no.2 and 3

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by issuing the order dated 2.8.2002 have willfully and contumaciously disobeyed the order of Tribunal dated 28.2.2002 in OA No.1401/2001. We have also seen the earlier order passed by the Tribunal dated 28.9.1999 in OA No.2290/1994 (in both these orders, one of us Mrs. Lakshmi Swaminathan, VC (J) was a Member).

3. Shri Mohit Madan, learned proxy counsel has contended that in the earlier order passed by the Tribunal dated 28.9.1999, there is a direction to grant the applicant higher pay scale with which we are not able to agree because there is no such direction and in fact the judgement of the Hon'ble Supreme Court in the case of Union of India and Another Vs P.V. Hariharain & Another, (1997 SCC L&S 838) has been referred to in the matter. In paragraph 9 of that order, the respondents were directed to take a decision regarding grant of appropriate pay scale to the applicant. In the subsequent order dated 28.2.2002 in OA No.1401/2001 certain directions were granted.

4. Shri Mohit Madan, learned proxy counsel repeatedly contends that the order of the Tribunal dated 28.2.2002 read with the earlier order dated 28.9.1999 can only be read as a direction to the respondents to grant higher pay scale to the applicant. We are unable to agree with this contention. The respondents have been directed to take a decision regarding grant of appropriate pay scale to the applicant, which has been reiterated in the subsequent order, after taking

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into account the advice already received by them from respondent No.1 i.e. Union of India which they had not done, even after lapse of sufficient time which has been noted in the later order.

5. On perusal of the order dated 2.8.2002 issued by the respondent No.2 and after also considering the contentions of Shri Mohit Madan, we are unable to come to the conclusion that the respondents should be punished under the provisions of the Contempt of Courts Act read with Section 17 of the Administrative Tribunals Act, 1985 as it cannot be held that they have willfully or contumaciously disobeyed the order of the Tribunal dated 28.2.2002 in OA No.1401/2001.

6. For the reasons given above, CP 287/2002 is dismissed. Notices issued to the alleged contemnors are discharged. File to be consigned to the Record Room.

V. Srikantan
(V. Srikantan)
Member (A)

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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