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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

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

C.P.No.661/2001
M.A.No.2656/2001
O.A.No.591/2001
M.A.No.316/2002

New Delhi, this the 8th day of March, 2002

Dharam Singh.
s/o Late Sh. Malkhan Singh
posted at Theatre Asstt.
R.M.L.Hospital
New Delhi. ... Petitioner

(By Advocate: Shri M.K.Bhardwaj)

Vs.

Union of India and others
through

1. Dr. S.P.Aggarwal
Director General
Health Services
Nirman Bhawan
New Delhi.
 2. Dr. C.P.Singh
Medical Suptd.
R.M.L.Hospital
New Delhi.
 3. Surinder Mohan
Deputy Director (Admn.)
R.M.L.Hospital
New Delhi. ... Respondents
- (By Advocate: Shri R.D.Aggarwal, Senior with Shri
Rajender Nischal)

O R D E R(Oral)

Smt. Lakshmi Swaminathan, VC(J):

We have heard Shri M.K.Bhardwaj, learned
counsel appearing on behalf of petitioner in CP
661/2001 and Shri R.D.Aggarwal, learned senior counsel
~~with Shri Rajender Nischal, learned counsel~~ appearing
on behalf of the respondents.

2. MA 2656/2001 has been filed by the
respondents seeking further extension of time for
compliance of Tribunal's order dated 10.8.2001 in OA
591/2001.

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3. In the meantime, we find that petitioner has also filed MA 316/2002 which is superfluous and is accordingly rejected.

4. Learned counsel for petitioner has very vehemently submitted that the respondents have failed to implement the Tribunal's order dated 10.8.2001 as they have to consider the case of the applicant for grant of relaxation as recommended by Respondents No.2 and 3 and grant relaxation as a one time measure. These directions have been given which are to be complied with by the respondents in accordance with rules, instructions and judicial pronouncements on the subject and to consider the case of the applicant sympathetically.

5. Shri R.D.Aggarwal, learned senior counsel has submitted that action has been taken by Respondent No.2 expeditiously, on receipt of the aforesaid order of the Tribunal dated 10.8.2001, by sending a letter dated 3.9.2001 to Respondent 1, i.e., DGHS. He has also drawn our attention to the fact that in this letter itself, Respondent No.2 had requested for timely action to implement the directions of the Tribunal. Thereafter, Respondent No.1 has, after consultation with the concerned department, sent the letter dated 1.2.2002 (Annexure-2 to the additional affidavit filed by respondents on 7.3.2002), in which it is noticed that the respondents have found that a serious irregularities^{ies} had been committed by them, including violation of the relevant Recruitment Rules. It is also clear from this letter that the respondents

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have considered the case of the applicant in the proposal for regularisation as OT Assistant and they were aware of the fact of his ad hoc appointment in that post.

6. Having regard to the relevant facts and circumstances of the case and the follow up action taken by Respondent No.2 in implementing the Tribunal's order dated 10.8.2001 in OA 591/2001, we are unable to agree with the contentions of Shri M.K.Bhardwaj, learned counsel, that Respondent No.1 has intentionally or contumaciously avoided and failed to implement the Tribunal's directions, justifying further action to be taken against him for punishment under the provisions of Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985. It is relevant to note that even in the directions contained in the order dated 10.8.2001, the Tribunal had directed Respondent No.1 to consider the case of the applicant for grant of relaxation as recommended by Respondents No.2 and 3 as a one time measure in accordance with rules, instructions and judicial pronouncements on the subject. This has been done by the respondents and we, therefore, find no ground to continue with the Contempt Petition.

7. We have also seen the Hon'ble High Court's order dated 4.3.2002 wherein it has been stated that the opinion of the Tribunal was only tentative in nature. In the circumstances, that order cannot assist the petitioner to show that the respondents have wilfully committed contempt of the order passed by the Tribunal.

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8. For the foregoing reasons, CP 661/2001 is dismissed. Notices issued to the alleged contemners are discharged.

9. Accordingly MA 2656/2001 also stands disposed of.

10. File be sent to the record room.

V.K. Majotra
(V.K. Majotra)
Member(A)

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

/RAO/