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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.449/99

HON'BLE SHRI R.K. AHOOJA, MEMBER(A)

New Delhi, this the ~~21~~ ²² day of May, 1999

Shri Hotam Chand
R/o B-565 Hastal Colony
Uttam Nagar, New Delhi-59

.... Applicant

(By Advocate: Shri H.C. Sharma)

Versus

UNION OF INDIA : Through

1. The Secretary
Ministry of Health & Family Welfare
Govt. of India
Nirman Bhawan, New Delhi

(By Advocate: Shri V.S.R. Krishna)

2. The Director
LRS Institute of T.B. and
Allied Diseases
Aurobindo Marg, New Delhi Respondents

(By Advocate: Ms. Nisha Seth, with
Ms. Sudha Srivastava)

O R D E R

The applicant has filed this O.A. aggrieved by the alleged action of the respondent, i.e. LRS Institute of T.B. & Allied Diseases, Aurobindo Marg, Mehrauli, New Delhi regarding denial of pay and allowances of the post of Ward Boy against which he has worked since 1.6.1996 without any break.

2. After notice was issued, Shri V.S.R. Krishna appeared for respondent No.1 and Ms. Nisha appeared for respondent No.2. When the matter came up on the last date, learned counsel for respondent No.2 raised a preliminary objection that the present O.A. is not maintainable as the Tribunal does not have jurisdiction in respect of the LRS Institute of T.B. and Allied Diseases, which is a registered society under the

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Societies Registration Act. It is also said to be an autonomous body with its own memorandum of association, rules and regulations and bye laws under which it is governed and no notification with regard to the purview of the Tribunal has been issued. The learned counsel for applicant, therefore, wanted to produce a copy of this Tribunal's order in O.A. No.229/98 decided on 14.9.98 wherein, according to the learned counsel for applicant, the respondent have accepted the jurisdiction of this Tribunal.

3. The learned counsel for the applicant has today produced a copy of the above order. In that O.A., a direction was sought by one Shri Dwarka Prasad working under respondent No.2 therein, seeking a direction to the latter to finalise the proceedings initiated against the applicant. The respondent had in that case produced a decision taken by the Director in regard to the review of the suspension of the applicant by the respondent. After hearing the arguments, a direction was issued to the Director of LRS Institute of TB and Allied Diseases to conclude the disciplinary proceedings expeditiously.

4. Shri Sharma, learned counsel for the applicant, submitted that since the respondents did not raise any objection earlier regarding the jurisdiction of this Tribunal and the orders of the Tribunal in the earlier case have not been challenged and no appeal has been filed, the orders of this Tribunal in regard to jurisdiction have attained finality. He also argued that in the present case the Single Member Bench is

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also bound to follow the conclusion of the Division Bench, which has accepted jurisdiction in regard to respondent No.2.

4. In my view the legal position cannot be changed by any concession on the part of the parties. Even if respondent No.2 had accepted jurisdiction of the Tribunal in another case, it does not mean that by this concession the Institute in question has come within the jurisdiction of this Tribunal even though no notification has been issued by the competent authority under Section 14(3) of the Administrative Tribunals Act, 1985. The issue in regard to the jurisdiction was not before the Division Bench. There is no mention in the order that that issue was raised and the Division Bench answered this question. Therefore, the contention of the learned counsel that this Bench has to follow the ruling of the coordinate Bench is not valid.

5. It is not denied by the learned counsel for the applicant that a notification under Section 14(3) of the Tribunals Act concerning the respondent Institute has been issued. It is also not denied that the LRS Institute of TB and Allied Diseases is a registered society under the Societies Registration Act with its own memorandum of association and its own rules and regulations governing its employees. I find, therefore, that the objection on jurisdiction under Section 14(3) of the Act is well taken. Accordingly, I dismiss this O.A. as not maintainable.

R.K. Ahuja
(R.K. AHOOJA)
MEMBER (A)