

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.671/98

with

O.A.No.2097/1999
M.A.No.2363/2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 28th day of September, 2000

1. All India Central Government Health Scheme
Employees Association through its President
Shri Jaidev
K-45, Srinivas Puri
New Delhi - 110 065.
2. Shri Radha Vallabh
s/o Late Shri Bala Dutta
r/o C-3/262, Lodhi Colony
New Delhi - 110 003. ... Applicants

(By Shri A.K.Behera, Advocate)

Vs.

1. Union of India through
The Secretary
Ministry of Health & Family Welfare
Nirman Bhawan
New Delhi - 110 011.
2. The Director General of Health Services
Nirman Bhawan
New Delhi - 110 011.
3. The Director, CGHS
Directorate General of Health Services
Nirman Bhawan
New Delhi - 110 011. ... Respondents

(By Shri M.K.Gupta, Advocate)

with

1. All India Central Government Health Scheme
Employees Association through its President
Shri Jaidev
K-45, Srinivas Puri
New Delhi - 110 065.
2. Shri Rati Ram Dhawaria
r/o C-4, CGHS Dispensary
Srinivaspuri
New Delhi - 110 065. ... Applicants

(By Shri A.K.Behera, Advocate)

Vs.

- 2 -
1. Union of India through
The Secretary
Ministry of Health & Family Welfare
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New Delhi - 110 011.
 2. The Director General of Health Services
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New Delhi - 110 011.
 3. The Director, CGHS
Directorate General of Health Services
Nirman Bhawan
New Delhi - 110 011.

... Respondents

(By Shri Madhav Panikar, Advocate)

O R D E R (Oral)

By Justice V. Rajagopala Reddy:

As same questions are involved in both the cases, they are disposed by a common order.

2. In both the cases the All India Central Government Health Scheme Employees Association is the main applicant seeking to espouse the cause of the Group 'C' and Group 'D' employees of the CGHS, the present OA is brought claiming wages for the strike period. The applicants in OA 671/98 went on strike from 4.6.1997 to 9.6.1997 and on 27.7.1999 in OA No.2097/99. The only grievance of the applicants in these cases is as to the payment of the wages during the strike period. The learned counsel for the applicant, Shri A.K.Behera submits that as the strike is being legal and justified, the applicants are entitled for the wages during the strike period. Learned counsel relies upon the Judgement of the Supreme Court in Syndicate Bank and Others Vs. K.Umesh Naik and a batch of cases reported in 1994(5) SCC 572. Interestingly, the respondents also rely upon the above judgement.

3. Paragraph 25 of the judgment is relied upon by both the counsel which is as under:

"We, therefore, hold endorsing the view taken in T.S.Kelawala that the workers are not entitled to wages for the strike period even if the strike is legal. To be entitled to the wages for the strike period, the strike has to be both legal and justified. Whether the strike is legal or justified are questions of fact to be decided on the evidence on record. Under the Act, the question has to be decided by the industrial adjudicator, it being an industrial dispute within the meaning of the Act."

4. The contention of the learned counsel for the respondents^{is} that the strike is illegal, hence the applicants were not paid the wages. Thus there is a dispute, as to the justification of the strike. It is clear from the above decision that the question whether the strike was legal or justified has to be decided only by the industrial adjudicator upon a reference of the industrial dispute properly raised before the Government. It is also stated by the Supreme Court in other portions of the judgment in para 28 and 32 that the issue has to be decided only by proper forum and not before the Court. In the circumstances, no relief can be granted to the applicants in this OA.

5. It is therefore open to the applicants to seek a reference of industrial dispute to be adjudicated by the industrial tribunal, it is for the Govt. to decide whether such reference could be made while such reference was sought for. Both the OAs are accordingly dismissed. No costs.

(GOVINDAN S. TAMPI)
MEMBER(A)

(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/