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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.P. NO. 213/94
IN
O.A. NO. 1207/94

New Delhi this the 25th day of October, 1994

THE HON'BLE MR. JUSTICE S. C. MATHUR, CHAIRMAN
THE HON'BLE MR. P. T. THIRUVENGADAM, MEMBER (A)

Smt. Aruna Kumari Sharma
W/O Shri Santosh Kumar Sharma,
R/O 3525, Netaji Subhash Marg,
Daryaganj, New Delhi-110002.

... Applicant

By Advocate Shri P. P. Khurana

Versus

1. Union of India through
Secretary, Ministry of
Health & Family Welfare,
Nirman Bhawan, New Delhi.
2. Dr. (Mrs.) Chandrama Anand,
Principal-cum-Medical Suptd.,
Lady Hardinges Medical College
& Sucheta Kriplani Hospital,
Panchkuyan Road,
New Delhi.
3. Dr. S. B. Purshottam, C.M.O.,
Lady Hardinges Medical College
and Sucheta Kriplani Hospital,
New Delhi.
4. Dr. (Mrs.) S. Malik,
Dy. M.S., Lady Hardinges
Medical College & Smt. Sucheta
Kriplani Hospital,
Panchkuyan Road, New Delhi.
5. Mr. G. C. Bansal, Chief
Administrative Officer,
Lady Hardinges Medical College
& Smt. Sucheta Kriplani Hospital,
Panchkuyan Road, New Delhi.
6. Mr. Balwant Singh,
Sr. Pharmacist Dispensary,
S.K. Hospital, New Delhi.
7. Mrs. Kuldeep Kaur,
Sr. Pharmacist,
S. K. Hospital, New Delhi. ... Respondents

By Advocate Shri M. M. Sudan

ORDER (ORAL)

Mr. Justice S. C. Mathur -

The applicant alleges disobedience by the respondents of the interim order dated 7.6.1994 passed in O.A. No. 1207/94.

2. The aforesaid O.A. was directed against the order dated 31.5.1994 transferring the applicant from Lady Hardinges Medical College to Kalyanpuri Health Centre with immediate effect. The order of transfer was served upon the applicant on 2.6.1994. The interim order was passed on 7.6.1994, relevant portion of which reads thus :-

"In the circumstances of the case, an interim order is passed to the effect that the respondents are restrained from giving effect to the transfer order dated 31.5.94 in case the applicant has not been relieved as on date..."
(Emphasis supplied).

3. The applicant was permitted to serve the order dated 7.6.1994 dasti. According to the applicant, the order was served upon the concerned respondents on 8.6.1994. It is stated that despite service of the interim order, the applicant was not allowed to join duty at Lady Hardinges Medical College. This, according to the applicant, is in disobedience of the directions of the Tribunal.

4. The contempt application has been contested on behalf of the respondents. The reply has been signed by Principal and Medical Superintendent, Lady Hardinges Medical College Smt. Sucheta Kripalani

Hospital, New Delhi. The stand taken on behalf of the respondents is that the interim order was conditional and was to operate only in case the transfer order had not been given effect to. It is stated that the transfer order itself provided that it will take effect immediately. Accordingly, it took effect on 2.6.1994 when it was served upon the applicant. On this basis, it is stated that the interim order dated 7.6.1994 was infructuous on its own terms. It has also been submitted that when the application for interim relief came up for further orders on 24.6.1994, the interim order was not extended on the ground that the transfer order had already taken effect. A copy of the order passed by Hon'ble Shri S. R. Adige, Member (A) has been placed before us.

5. The learned counsel for the applicant has strenuously submitted that when the interim order dated 7.6.1994 was passed, the transfer order dated 31.5.1994 was already before the Tribunal. The Tribunal was not satisfied that the statement "with immediate effect" amounted to saying that the order would take effect immediately on service, and the Tribunal was of the view that something more was required to be done, namely, an order to relieve the applicant. It is submitted that the transfer order dated 31.5.1994 was not followed by any order requiring the applicant to be relieved. It is on this basis that it is claimed that the order had not taken effect on 7.6.1994 when the interim order was passed or on

8.6.1994, when it was served upon the concerned respondents.

6. The controversy raised by the learned counsel has already been noticed in the order dated 24.6.1994 of Hon'ble Shri S. R. Adige, M(A). The learned Member did not accept the submission of the learned counsel for the applicant and held that the applicant stood relieved on 31.5.1994 itself. The observation in paragraph 8 of the order runs thus, "The impugned order of transfer which she received on 2.6.1994 is complete in itself and does not require any further relieving order to support it. The applicant must be deemed to have stood relieved w.e.f. 31.5.1994, and in the circumstances, no ground for extension of the interim order passed on 7.6.1994 is made out. This order has become final between the parties as it has not been asserted before us that it is under challenge before a higher forum.

7. The purpose of civil contempt proceedings is to obtain compliance of the Tribunal's order. When the order is no longer in existence, there is no question of obtaining its compliance.

8. The learned counsel for the applicant has relied upon Ravinder Kumar Walia vs. General Manager (P), Northern Railway, New Delhi : 1989 (11) ATC 461, for submitting that the reply submitted on behalf of the respondents is no reply at all, as it does not express any regret on the part of the respondents. Particular reliance has been placed upon the observations contained in paragraphs 17 to 21 of the report.

A regret may be required to be expressed where the respondents accept disobedience of the order. In the present case the plea of the respondents is that no contempt has been committed and they have not disobeyed the order. We do not find any flaw in the reply submitted on behalf of the respondents.

9. Another defect in the reply pointed out by the learned counsel is that it does not indicate the respondents on whose behalf the reply has been filed and the authority of the person to file reply on behalf of all the respondents. The reply is signed by the Principal and Medical Superintendent, LHM & Sucheta Kriplani Hospital. Learned counsel for the applicant is right in pointing out these defects. The reply has been signed by someone whose name is not at all decipherable. Although the reply purports to be on behalf of all the respondents, meaning thereby all the five respondents, who have been impleaded in the contempt application, there is no indication that the Principal has been authorised in that behalf by all the five respondents. However, this defect does not cure the defect in the contempt application we have pointed out hereinabove.

10. In view of the above, the contempt application is rejected. Notice issued to the respondents is discharged.

11. The learned counsel for the applicant has stated that no observation may be made that nothing said in this judgment shall affect the merits of the O.A. We have made no comments on merits of the original application.

P. J. Ad
(P. T. Thiruvengadam)
Member (A)

S. C. Mathur
(S. C. Mathur)
Chairman