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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

CP No. 202/98 IN
OA No. 499/95

New Delhi, this the 8th day of March, 1999

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

Dr. (Mrs.) Madhu Agarwal,
W/o Dr. A.K. Agarwal,
R/o 33-B, DA Block (Hari Nagar),
G-8, Area, Rajouri Garden,
New Delhi.

.... Petitioner

(By Advocate: Sh. K.L. Bhandula proxy for
Mrs. Sipra Mukherjee)

Vs.

1. Sh. P.Y. Jaykrishnan,
Chief Secretary,
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi.
2. Shri Ramesh Chandra
Principal Secretary (Medical & Public Health)
(Director ISM & Homeopathy)
5, Sham Nath Marg,
Delhi.
3. Dr. Raj Kumar Manchanda
Asstt. Director (Homeopathy)
Deptt. of Homeopathy,
Directorate of ISM & Homeopathy
N.H.M.C. & Hospital
B-Block, Defence Colony
New Delhi.
4. Dr. V.K. Khanna,
Principal,
N.H.M.C. & Hospital
B-Block, Defence Colony
New Delhi.
5. Sh. Tejender Khanna,
Lt. Governor of Delhi
Raj Niwas, Raj Niwas Marg,
Delhi.

.... Respondents

(By Advocate: Sh. Ajesh Luthra proxy for
Ms. Jyotsna Kaushik)

[Signature]
8.3.99.

ORDER

delivered by Hon'ble Shri T.N.Bhat, Member (J)

We have heard Sh. K.L.Bhandula proxy counsel for Mrs. Sipra Mukherjee, counsel for the petitioners and Sh. Ajesh Luthra proxy for Ms. Jyotsna Kaushik, counsel for the respondents.

2. This CP has been filed by the applicant No. 2 in OA-499/95 which was disposed of by this Tribunal on 15.10.96 with a direction to the respondents in the OA to consider providing promotional avenues to demonstrators (Homeopathy) in the light of the report submitted by the Advisory Committee set up by the respondents and to take a final decision as expeditiously as possible but within a period of 3 months from the date of communication of the aforesaid order.

3. When the applicants in the OA did not receive any favourable response to their representation in which promotion was being claimed they filed a contempt petition, being CP No. 194/97. The respondents appeared on receiving notices in the above CP and stated that a final decision has already been taken to implement the report submitted by the Advisory Committee and that the creation of posts was already under consideration. It was further stated that necessary sanction for the posts had also been obtained and the formal orders would be issued within a couple of days. In view of the statement made by the respondents, who had appeared in person, the Tribunal by its order dated 21.8.97 dropped the contempt proceedings and discharged the notices.



26

4. This fresh CP, being No.202/98, has been filed by one of the two applicants seeking action in contempt against the respondents, as according to the petitioner the respondents have still not taken any follow up action.

5. On a notice being issued the respondents filed their reply in which they have stated that the directions of the Tribunal have already been implemented, in that, a final decision to upgrade the posts of demonstrators as Medical Officers have already been issued. It has, however, further been stated that since the UPSC is to be consulted before the final steps for upgradation are taken the matter has been referred to the UPSC for its concurrence in the matter.

6. We have perused the departmental records made available by the respondents and find that several steps have already been taken by the respondents after the sanction for creation of posts was obtained from the competent authority, namely, the Lt. Governor. It, however, appears that some of the authorities to whom the matter is being referred have raised certain queries which had already been replied to and it is hoped that the follow up action giving necessary consequential benefits to the applicant shall be taken soon. We would expect the respondents to treat the matter on priority basis, considering the fact that there is already a direction by the Tribunal in this regard.




27

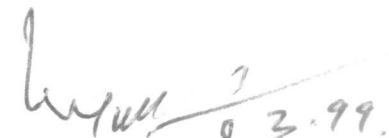
[4]

7. However, we are convinced that no contempt is made out, the simple being that there was no specific direction to the respondents to actually promote or place the applicants in the OA in the upgraded posts. It is true that the respondents are supposed to pass the necessary orders and to finalise the matter expeditiously, but it is equally true that in view of the nature of the order passed and the directions issued by the Tribunal no action under contempt can be taken against the respondents. We are convinced that there has been substantial compliance with the directions of the Tribunal.

8. For the foregoing reasons, this CP is dismissed and the notices issued to the respondents are discharged.


(S.P. BISWAS)
Member (A)

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(T.N. BHAT)
Member (J)