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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

M.A.NO.607/95 in

O.A. 363/95

New Delhi, the 10th March, 1995

Hon'ble Shri J.P. Sharma, Member(J)

Hon'ble Shri B.K. Singh, Member (A)

Miss Usha Gupta,
d/o Shri H.S. Gupta,
3679, Gali Lohewali,
Chawri Bazar, Delhi.

... Applicant

By Advocate: Shri O.N. Moorli

Vs.

Union of India
through
Medical Superintendent,
Safdarjung Hospital,
New Delhi.

... Respondents

By Advocate: None

ORDER (ORAL)

Hon'ble Shri J.P. Sharma, Member (J)

Heard Shri O.N. Moorli, counsel for the applicant.

While hearing this application on admission on 22.2.95, we have passed certain directions which are quoted below:-

"The applicant filed an earlier O.A.No.2216/89 which was decided by Division Bench by the order dated 17.9.93. The point of resignation submitted by the applicant while she was holding the post of Medical Social Worker in Safdarjung Hospital, New Delhi was considered. The application was disposed of with the direction that the respondents shall direct her to undergo a medical examination during the period of one month from the date of communication of this order, in accordance with the rules adverted to above. The respondents shall also pass necessary orders after receiving the medical report in regard to the treatment of the period from the date and acceptance of resignation till the date an order is passed on the basis of the medical report, as leave due, leave not due, extra-ordinary leave (emphasis supplied) as the case may be in accordance with the relevant rules.

JL

... 2.

It appears that the applicant has since been re-instated in compliance with the direction of the aforesaid judgement dated 17.9.93. The applicant has filed the present C.A.No.363/95 on 17.2.95 and she has prayed for the grant of the reliefs in para 8(i) which are quoted below:-

- (a) To direct the respondents to issue necessary orders treating the period from 18.11.1988 and give the orders to the applicant treating the applicant on duty since 18.11.1988.
- (b) to fix the salary of the applicant after giving her due increments from 1988.
- (c) to pay to the applicant full pay and allowances together with interest at 18% p.a. from 18.11.1988, after giving credit for the sums paid in Jan. and Feb.1995.
- (d) to restore the deductions made from the salary paid to the applicant in Jan/Feb.,1995.
- (e) to pay interest at 18% p.a. on the outstanding amounts
- (f) to pay the costs of the present proceedings.

Regarding relief prayed for by the applicant in sub para (a) if the respondents have not complied with the direction of treating the period referred to she was free to move according to law for compliance of the aforesaid direction.

With regard to clause (c) of the relief clause, the case is also covered by the direction given in the aforesaid judgement and it is because of this fact the applicant has prayed for the grant of the relief in sub para (a) for treating of that period. If the applicant had any claim for full salary and wages, she could have directly prayed in the earlier O.A. for the grant of her full salary for that period. In view of this, we hold that the relief claimed by the applicant in sub para (c) of para 8 is barred by principle res judicata i.e. an issue already judicially adjudicated upon by a particular direction issued for treating of the aforesaid period in a particular prescribed manner.

As regards relief prayed in sub clause (d) there is a prayer to restore the deductions made from the salary paid to the applicant in Jan. and Feb.,1995. The application is taken as made out a case for hearing on admission on the relief prayed for in sub-clause (d)

The applicant has also made a prayer in sub para (b) that the pay of the applicant be also fixed though it appears by praying relief in sub clause (d) that the applicant is being paid salary and certain deductions are made, therefore, this prayer is covered in sub clause (d) of para 8 itself when it can be considered whether the pay of the applicant has been legally fixed and whether any deductions are made illegally of an amount not due against the applicant by the respondents. In view of this, notice will be issued to the respondents when the applicant delete relief clause in sub para (a) and (b) of para 8.1 within a week's time. If the compliance of this order is made, a notice be issued to the respondents to file their reply in four weeks and rejoinder in two weeks thereafter. The necessary deletion shall also be made in the copies of the O.A. to be sent to the respondents.

List the matter on 11.4.95. When this order was dictated the applicant's counsel stated that what has been written in the O.A. in relief clause let it be remained. But, in view of the order we have passed earlier, it is necessary to get the proposed reliefs deleted from the relief clause. Necessary deletion shall be made by the applicant within a week's time. List the matter on 11th April, 1995"

2. We, therefore, directed that relief in sub para (a)(c) of para 8.1 be deleted as it is covered by the earlier judgement delivered by the Tribunal in O.A. No. 2216/89 decided on 17.9.93. The applicant has made certain alterations in the relief prayer but relief (a) has not been deleted from para 8.1.

3. The learned counsel for the applicant has also moved M.A. No. 607/95.

4. After making submissions for some time, the learned counsel for applicant states that he may be

allowed to withdraw this application. The application is dismissed as withdrawn with liberty to file fresh application only with respect to the relief which has ~~not~~ been ^{ordered to be} considered in this case by virtue of the order quoted above dated 22.2.95. Original application as well as M.A. is disposed of accordingly.

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(B.K. SINGH)
MEMBER(A)

J.P. SHARMA
MEMBER(J)

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