

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A No. 11/2000
T.A No. with MA 438/2001

(16)

Date of Decision 1-10-2001

Dr. Jainendra Kumar

..Petitioner

Sh. M.K. Gupta

..Advocate for the Petitioner(s)

Versus

UOI & Ors

..Respondent

Sh. Rajeev Bansal

..Advocate for the Respondents

Coram:-

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

1. To be referred to the Reporter or not ? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal ? No

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

Central Administrative Tribunal
Principal Bench

O.A. 11/2000
with
MA 438/2001

New Delhi this the 1st day of October, 2001

(17)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).
Hon'ble Shri Govindan S. Tamai, Member(A).

Dr. Jainendra Kumar,
S/o Dr. G.P. Srivastava,
C/o A-15/227, Indian Airlines Colony,
Vasant Vihar,
New Delhi.

... Applicant.

(By Advocate Shri M.K. Gupta)

Versus

1. Union of India, through
its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi-110011.

2. Director General of Health Services,
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi-110011.

3. The Medical Superintendent,
Safdarjung Hospital,
New Delhi-110029. ... Respondents.

(By Advocate Shri Rajeev Bansal)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J).

The applicant has filed this O.A. on 4.1.2000 praying for, inter alia, a direction to the respondents to treat him as regular Vocational Counsellor with all consequential benefits. Later, he has filed MA 438/2001, stating that during the pendency of the O.A., he has been recommended by the UPSC for selection to the post of Psychologist in Vocational Rehabilitation Centre for Handicapped in the Directorate General of Employment and Training, Ministry of Labour. He has been offered the

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appointment to the aforementioned post on 21/21.12.2000. He has accepted the offer of appointment and has requested Respondent 3, that is, the Medical Superintendent, Safdarjung Hospital, New Delhi, where he was earlier working, to forward his acceptance. According to him, that has been done by letter dated 5.1.2001 but Respondent 1 did not do so to the Ministry of Labour. He has submitted that he had met ¹⁸ the concerned officials of Respondent 2 to have his case forwarded to the Ministry of Labour along with medical and police verifications. That has also not been done. In the MA, reference has been made to the interim order passed by the Tribunal dated 5.1.2000 which has been continued from time to time.

2. The applicant has submitted in MA 438/2001 that the attitude of official respondent No.2 is not just or legal as there is no bar to his joining any other office where he has been duly selected. He has, therefore, prayed that the Tribunal may issue directions to the respondents to forward his medical report as well as police verification to the Ministry of Labour, so that he can take up the new appointment without any further delay by allowing MA 438/2001.

3. The respondents have filed reply to MA 438/2001 and we have also heard Shri Rajeev Bansal, learned counsel. The respondents have submitted that the MA is not maintainable as it has no relevance to the issues raised in the O.A and the causes of action are different. They have also submitted that the applicant's ad hoc service as Vocational Counsellor has been terminated by the competent

✓ authority, i.e. Director General, Health Services vide order dated 3.1.2000 whereas the applicant has filed O.A. on 4.1.2000. In interim order dated 5.1.2000, it is stated that if, as stated by the learned counsel for the applicant, the applicant is still working as on that date on the post of Vocational Counsellor, he should not be disengaged. They have submitted that in the meantime, the applicant had informed about his selection to another post in the Ministry of Labour. They have submitted that in view of the interim orders passed by the Tribunal regarding the status of the applicant which is, according to them, subsequent to the termination of his services, they are not bound to act on the correspondence of the applicant regarding his appointment elsewhere. They have, therefore, submitted that when the status of the employment is under challenge, his resigning ¹⁸² from the post to join any other agency does not warrant any action from them. In the circumstances, learned counsel has prayed that the MA may be dismissed.

✓ 4. We have carefully considered the submissions and averments made by the parties in MA 438/2001. Both learned counsel for the parties had submitted that with the disposal of MA 438/2001, O.A. may also be disposed of.

5. In the O.A, the applicant has stated that his services as Vocational Counsellor with the respondents are being threatened and he had prayed that the same may be regularised. As mentioned above, the interim order dated 5.1.2000 clearly states that if the applicant is still

working on that post as on that date, he should not be disengaged which interim order has been continued from time to time. During the pendency of the O.A., it appears that the applicant has been offered the post of Psychologist in the Rehabilitation Centre for Handicapped in the Ministry of Labour. Taking into account the facts and circumstances of the case, we see force in the submissions of the learned counsel for the respondents that the averments made in MA 438/2001 are not related to the averments or reliefs prayed for in the O.A. The grievance of the applicant is with regard to the post of Vocational Counsellor which he was earlier holding under Respondent 3, whereas the claims in the MA relates to an entirely different cause of action. The applicant has been given the offer of appointment to the post of Psychologist under the Ministry of Labour which has been done on the recommendations of the UPSC as a direct recruitment and it has no bearing on the claims made by the applicant in the O.A. with respect to his services under the respondents. It is relevant to note that Ministry of Labour is not even a party in the O.A. The Miscellaneous Application is, therefore, not maintainable as it is neither relatable nor consequential to the reliefs prayed for by the applicant in the Original Application.

6. In the result, for the reasons given above, MA 438/2001 is dismissed. Accordingly, in terms of our order dated 12.9.2001, O.A.11/2000 is also dismissed. No order as to costs.

Govindan S. Tampi
Member (A)

SRD

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Vice Chairman (J)