

Central Administrative Tribunal
Principal Bench, New Delhi

C.P.No.151/2002 IN
O.A.No.648/2000
M.A.No.1810/2002

29

Thursday, this the 22nd day of August, 2002

Hon'ble Mrs. Lakshmi Swaminathan, Vice Chairman (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

Dr. Virendra Jain
s/o Late Shri J.P. Jain
Medical Officer, CGHS Dispensary
Subzi Mandi, Delhi-7
r/o 5A/3 Ansari Road, Darya Ganj,
New Delhi-2

...Petitioner

(By Advocate: Shri R.L. Dhawan)

Versus

1. Shri Javed Ahmed Chowdhary
Secretary,
Ministry of Health & Family Welfare
Nirman Bhavan, New Delhi-11
2. Dr. G.K. Chanana,
Director, Central Health Service,
Ministry of Health & Family Welfare
Nirman Bhavan, New Delhi-11
3. Dr. P. Ranga Rao
Director
Central Govt. Health Scheme,
Ministry of Health & Family Welfare,
Nirman Bhavan, New Delhi-11
4. Dr. B.N. Dutta
Addl. Director,
Central Govt. Health Scheme (East Zone)
C.G.H.S. Building, Rajinder Nagar,
New Delhi-60

... Respondents

(By Advocate: Shri V.S. R. Krishna)

O R D E R (O R A L)

Mrs. Lakshmi Swaminathan, VC (J):

We have heard Shri R.L. Dhawan, learned counsel for petitioner and Shri V.S. R. Krishna, learned counsel for respondents in CP-151/2002 in OA-648/2000 and MA-1810/2002.

2. MA-1810/2002 has been filed on behalf of the petitioner praying for a direction to the respondents to produce the relevant records, like ACR file and DPC proceedings.
3. We have carefully considered the directions of the Tribunal in OA-648/2000 vide order dated 24.7.2001. According to the learned counsel for respondents

30

the directions contained in paragraph 10 of that order has been complied with as they have passed the necessary orders and complied with the directions. This has been hotly disputed by Shri R.L. Dhawan, learned counsel, who has, we notice, reiterated some of the arguments which has already been advanced before the Tribunal in OA-648/2000. According to him, the respondents have also not followed the required rules and instructions while holding the DPC for considering the petitioner for promotion as Senior Medical Officer with effect from 1991. He has also submitted that the petitioner ought to have also been paid the full pay and allowances till January 1995, according to the respondents, his suspension order had been revoked w.e.f. 31.1.1992. For these reasons, learned counsel for petitioner has urged that the respondents have wilfully and contumaciously disobeyed the Tribunal's order for which they should be punished.

4. We have read and re-read the aforesaid order of the Tribunal dated 24.7.2001 together with the subsequent orders issued by the respondents which are stated to be in compliance thereof. Nothing has been brought on record by the petitioner to show that there has been any wilful or contumacious disobedience of the Tribunal's order in the manner in which the respondents have held the DPC or paid the amounts which are directed to be paid in the order. It is settled law (J.S. Parihar Versus Ganpat Duggar & Ors. JT 1996 (9) SC 608) that the Contempt Petition cannot be used as if it is an appeal, as the learned counsel for petitioner is attempting to do in the present case and re-agitate the same issue which have already been put forth before the Tribunal passed the aforesaid order dated 24.7.2001. However, if the petitioner has any grievance as to the manner in which the DPC has been held, ^{for} ~~for~~ for example, that the ACRs of the petitioner for the previous years have not been considered and so on, he is at liberty to agitate the same, if so advised, by fresh proceedings in accordance with law. This will also apply to the question of payment of full pay for the period when the petitioner was under suspension. However, according to the respondents, as his suspension period had already been revoked he was expected to resume duties and he was, therefore, on unauthorized leave.


5. In the facts and circumstances of the case, we do not also find any need to ask the respondents to bring the subsequent records as prayed ^{for} in MA-1810/2002 and that MA is accordingly rejected.

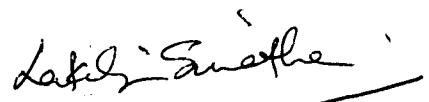
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6. In the above facts and circumstances of the case and having regard to the directions of the Tribunal in order dated 24.7.2001, we are unable to agree with the contentions of the learned counsel for petitioner that there is any need or justification to proceed further in the CP-151/2002 to punish the alleged contemnors under the provisions of the Contempt of Courts Act, 1971 read with the provisions of Section 17 of the Administrative Tribunals Act, 1985. Accordingly, CP-151/2002 is dismissed. Notices to the alleged contemnors are discharged. File be consigned to the record room.


(S.A.T. Rizvi)
M (A)


(Mrs. Lakshmi Swaminathan)
V.C. (J)

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