

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.2445/89

Date of decision:9.7.92

MRS. MADHU GUPTA

APPLICANT

VERSUS

U.O.I. & ANR.

RESPONDENTS

CORAM:THE HON'BLE MR.T.S.OBEROI, MEMBER(J)
THE HON'BLE MR.I.K.RASGOTRA, MEMBER(A)

For the Applicant ... Sh.P.P.Khurana, Counsel.

For the Respondents.. Sh.N.S.Mehta, Counsel.

1. Whether the reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT(ORAL)

(DELIVERED BY HON'BLE SH.I.K.RASGOTRA, MEMBER)

We have heard the learned counsel of both parties.

2. The applicant while working as Nursing Sister in the Safdarjung Hospital was transferred to Lady Harding Medical College and Smt.Sucheta Kriplani Hospital, New Delhi with effect from 4.12.89 vide Office Order dated 1.12.89 along with other staff on the ground that this staff was appointed against the posts sanctioned for the Drug De-addiction Programme which unit had been transferred to Lady Harding Medical College and Smt.Sucheta Kriplani Hospital. When the case came up for hearing on admission on 7.12.89, the Tribunal stayed the operation of the said order and directed issuance of notice to the respondents, returnable on 18.12.89. The interim order has been continuing since then and the applicant has continued to work in the Safdarjung Hospital. The learned counsel for the applicant has submitted that in accordance with

the appointment letter, the applicant was appointed by the Medical Superintendent, Safdarjung Hospital (Annexure A-1). The recruitment rules also for the three centrally administered Hospitals viz., Safdarjung Hospital, Dr. Ram Manohar Lohia Hospital and Lady Harding Medical College and Mrs. Sucheta Kriplani Hospital are separate and the recruitment to various posts in these Hospitals is made separately in accordance with the respective recruitment rules. The seniority of the employees is also maintained for each Hospital separately and not on the basis of a common seniority for all the three Hospitals. If the applicant is transferred from the Hospital where she is working at present to another Hospital, she will suffer grievous prejudice by way of loss of seniority and avenues of promotion. The respondents vide Memorandum dated 3.11.89 had asked the applicant if she was willing to go on transfer to Lady Harding Medical College & Hospital as Nursing Sister. She however, gave her unwillingness on 11.11.89. The learned counsel for the applicant further submitted that vide order dated 2.8.1991, a copy of which has been filed today, the applicant has been promoted as Assistant Nursing Superintendent. In these circumstances, the question of transfer of the applicant to an ex-cadre post outside her seniority unit, against her will, is no longer valid nor legally tenable.

3. The respondents in their counter as well as during arguments have emphasised that the applicant

was appointed against the sanctioned post of Nursing Sister in Drug-De-Addiction Department and consequent upon the re-organisation and transfer of that Department, the applicant was transferred to Lady Harding Medical College and Mrs. Sucheta Kriplani Hospital. They have also referred to the directions given by the Hon'ble Supreme Court in regard to the staff of All India Institute of Medical Sciences, who were directed to be taken as fresh employees in the Safdarjung Hospital when the Post Mortem Department in the A.I.I.M.S was wound up in support of their contentions.

4. We have considered the matter carefully and are of the opinion that the employees of any particular seniority unit cannot be transferred to another seniority unit as such transfer is likely to affect adversely their seniority and avenues of promotion unless they are allowed to carry their seniority with them after obtaining their consent. We have also perused the copy of the judgement of the Hon'ble Supreme Court in Baleshwar & Ors. Vs. Union of India & Ors dated 25.4.1989 in Civil Writ Petition No.879 of 1988(copy enclosed as Annexure R-II). The facts of the present case are distinguishable. In view of the above discussion, Office Order No.6-15/86-Admn.V dated 1.12.89 is hereby quashed/ and set aside so far as the applicant in this OA is concerned. The interim order dated 7.12.89 is made absolute.

5. The OA is disposed of on the above lines with

no order as to costs.

I. K. Rasgotra
(I. K. RASGOTRA)
MEMBER(A)

T. S. Oberoi
(T. S. OBEROI)
MEMBER(J)