

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
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O.A. NO. 764/89

DATE OF DECISION : 25.3.92

MRS. G.K. KHURANA & MRS. S.D. PASRICHA, APPLICANTS

VS.

UNION OF INDIA

... RESPONDENT

CORAM

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANTS

... SHRI R.L. SETHI

FOR THE RESPONDENT

... SHRI P.P. KHURANA

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

JUDGEMENT (ORAL)

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

The applicants in this case are the members of Delhi Nurses Union registered body having their office at Dr. Ram Manohar Lohia Hospital, New Delhi. Though the title of the Suit has been wrongly described, but this technical error is ignored as the matter has already been admitted and is ripe for hearing. The challenge is made to an order dt. 9.3.89 (Annexure A1) wherein the Medical Superintendent of Dr. Ram Manohar Lohia Hospital issued an order that these Nursing <sup>Supervisory</sup> Sisters who did not perform night duty in the month of February, 1989, shall not be entitled to their wages of that particular date on the principle of "no work no pay". It was

ordered that necessary deductions from their salary be done which goes to show that they have already been paid for the days when they allegedly did not perform the night supervisory duty. A report in this regard is at Annexure 1A at p-14 of the paper book given by Nursing Superintendent on 2.3.1989 in which there are about 38 Nursing Sisters and some of them are alleged to have not performed night supervisory duty on a single day and the other on two days. On 8.5.1989, the Bench was given an assurance by the learned counsel for the respondents, Shri P.P.Khurana that the respondents will not affect any recovery from the salaries of the applicants till the application is disposed of.

2. The respondents did not file any counter to the OA in spite of several opportunities having been afforded. The pleadings in this case were, therefore, taken as complete and the arguments have been heard. The learned counsel for the applicants pointed out that Ward Nursing Sisters have to perform such duties which are given out in Appendix 'C' in paragraph-III p-88 of the Hospital Manual and that is extracted in para-4.4 of the OA. The same is reproduced below :-

"The Ward Sister is responsible to the Nursing Superintendent/Matron for the management of the wards and supervision of the Nursing and domestic staff. She would be assisted in carrying out the following duties by Staff Nurse, Clinical and Domestic Staff as the case may be. The main aim of the Ward

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Sister should be to foster team spirit in her area of work :

- i) Nursing care of patients;
- ii) Teaching and nursing students;
- iii) Ward Staff;
- iv) Ward Management and
- v) General."

The learned counsel also referred to certain recommendations of 3rd and 4th Central Pay Commission's report and on the basis of the above, it has been argued that Ward Nursing Sisters have been assigned duties which normally lie within the domain of Nursing Superintendent. The learned counsel for the applicants only prayed that the impugned order of making deductions from the salary of the applicants for the period they are alleged to have not performed Nursing supervisory duties at Dr. Ram Manohar Lohia Hospital be quashed. The learned counsel, however, did not like any adjudication on the point as to what should be the scope of the duties of Ward Nursing Sisters as the matter is being still under consideration of the respondents.

3. I have heard the learned counsel for the respondents also and he rightly pointed out that the matter concerning the scope of the duties of Ward Nursing Sisters could not be agitated before the Single Bench and only on this account, the impugned order cannot be quashed. However, the only prayer of the learned counsel for the applicants is that since they have worked for that day elsewhere in the hospital, so the

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principle of no work and no pay cannot be applied to them.

It is stated in para 5.7 of the grounds that the applicants very much were present on the day and performed their final duties and also marked their attendance in the attendance register maintained in the hospital. Thus the principle which has been invoked by the respondents of 'No Work No Pay' does not hold good.

4. On the account of non performing any duty, by the respondents on the principle of natural justice, the applicants should have been heard before passing any order condemning them. On this account also, the impugned order suffers from infirmity.

5. Further also, there is already an interim stay granted to the applicants by the order dt.24.4.1989 by the Division Bench considering the matter as it was placed before them.

6. In view of the above discussion, the impugned order dt.9.3.1989 is set aside and quashed and the respondents are directed not to deduct any salary or recover as arrear from the applicants of the period allegedly shown in Annexure-1A of not performing night supervisory duties. However, this will not be taken as any adjudication on the point of the scope of

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the duty of the Ward Nursing Sisters as the same has  
not been touched in this application and has been left open.

In the circumstances, the parties to bear their own costs.

*J. P. Sharma* 25.3.92  
(J. P. SHARMA)  
MEMBER (J)

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