

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA No. 757/88

.. Date of decision: 12.02.93

Delhi Prantiya Hospital

Nurses Sabha & Others .. Applicants

Versus

Delhi Administration &

others

.. Respondents

Sh. K.C. Mittal

.. Counsel for the applicant

Ms. Mukta Gupta

.. Proxy counsel for Ms. Avnish

Ahlawat, Counsel for the

Respondents.

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Hon'ble Sh. P.K. Kartha, Vice Chairman (J)

Hon'ble Sh. B.N. Dhoundiyal, Member (A)

1. Whether Reporters of local papers may be  
allowed to see the judgement ? *Yes*

2. To be referred to the Reporters or not ? *Yes*

J U D G E M E N T

(Of the Bench delivered by Hon'ble Sh. B.N.

Dhoundiyal, Member(A)

This OA has been filed by the Delhi Prantiya Hospital Nurses Sabha (Regd.) through its President besides six other Nursing Sisters, Staff Nurses etc. challenging the non-implementation of the recommendations of a High Power Committee. *Sw*

2. Applicant No.1, Delhi Prantiya Hospital Nurses Sabha (DPHNS) is the registered body of the employees of various hospitals who are serving as Nursing Sisters, Staff Nurses, Ward Masters and Theatre Masters. The Association seeks redressal of the grievances of its members. To press their demands, there were strikes on 21.8.84 and 5.9.84 leading to constitution of a High Powered Committee on 20.09.84 under the Chairmanship of the Medical Supdt., L.N.J.P.Hospital with representatives of Delhi Administration and D.P.H.N.S. as members. The Committee made recommendations on various demands of the applicants which were accepted by the Delhi Administration vide their letter dated 15.04.1985. Implementation was only partial and when the requests for full implementation were ignored, a notice for strike was issued on 8.1.87 followed by a strike from 19.1.87 to 4.2.87. The following reliefs have been prayed for :-

- (i) Direct the respondents, its employees and agents to to implement the decision thereby accepting the recommendations of the High Power Committee and give all the benefits to them as mentioned in para 6(1) of the application which have not been implemented so far.
- (ii) Direct the respondents to pay the salary to its members for the strike period w.e.f. 19.1.87 to 4.2.87.

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(1)

- (iii) Direct the respondents to revise the pay scales and allow them the pay scales at par with the House Surgeons, Sub-Inspector (Police), S.H.O. (Police) and the Pharmacist (Union Territory).
- (iv) Direct the respondents to grant risk allowances to them.
- (v) Any other relief as may be deemed fit and proper by this Hon'ble Tribunal in the circumstances of this case may also be granted to them. "

3. The respondents have stated that under Section 34 of the Delhi Administration Act, Delhi Administration can be sued only through the Government of India. All financial sanctions are granted by the Govt. of India and Delhi Administration has no power to change the service conditions of its employees without prior permission of Govt. of India. The recommendations of the High Power Committee cannot be treated as final till these are accepted by the Govt. of India. Thus, demands like payments of arrears of uniform allowance, payment of operation theatre allowance from 1932, acceptance or modification of the recommendations of the Pay Commission, amendment of Workmen's Compensation Act etc. can only be accepted or rejected by the Govt. of India. Since Govt. of India have not been made a party, the O.A. is not maintainable.

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4. We have gone through the records of the case and heard the learned counsel for both the parties. The constitution of the High Power Committee, its composition as well as its recommendations, the charter of demands that it considered, the strikes before and after its formation, are all part of collective bargaining. It is clear from the letter dated 24.1.1987 from the Advocate of the Applicant No.1 to the Conciliation Officer (Annexure P.9) that the settlement was under the aegis of the conciliation machinery and the nature of dispute was essentially of the type covered under the Industrial Disputes Act, 1947. Further steps envisaged under the said Act in such cases like constitution of Board of Reconciliation (Section 5) or reference to Boards, Courts and Tribunals (Section 10) are yet to be taken. It has been held by the Full Bench of this Tribunal that in such cases, the applicants should exhaust the remedies available to them under the Industrial Disputes Act, 1947 before approaching the Tribunal (Padma-Vally Vs. U.O.I. -1990 (3) SLJ (CAT)) 544). We, therefore, hold that the Union of India is a necessary party to the dispute and in such cases of collective bargaining the reconciliation and adjudicatory machinery provided under the Industrial Disputes Act is a more appropriate forum. ~~In view of the matter~~ <sup>in</sup> view of the matter <sup>we</sup> are of the view that it would not be appropriate for this Tribunal to adjudicate whether a strike is legal or illegal or whether the absence is to be adjusted against the leave due or the agreed principle of 'No Work No Pay' has to be followed. We are however,

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conscious of the fact that this O.A. was admitted for adjudication by this Tribunal as early as on 20.7.88. In the interest of justice, we, therefore, order and direct as follows:

- (1) The respondents shall approach Secretary, Ministry of Health, Govt. of India to constitute an Empowered Committee with the representatives of Min. of Finance and any other Ministry deemed necessary to consider the remaining demands and take appropriate decisions in the light of the recommendations of such Committee. The Committee shall be constituted expeditiously and preferably within a month of communication of this order and appropriate orders in this regard shall be issued within a period of 6 months thereafter.
- (2) If Conciliation or adjudication becomes necessary, the required approach shall be made to the appropriate authority.
- (3) After the process under Industrial Disputes Act are completed, the applicants shall be at liberty to approach this Tribunal in case they feel aggrieved by the decision taken by the respondents.

There will be no order as to costs.

*B.N. Dhoundiyal*  
(B.N. Dhoundiyal) 12/2/93

Member(A)

*P.K. Kartia*  
(P.K. Kartia) 12/2/93

Vice Chairman (J)