



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.802/2020

Tuesday, this the 8th day of September, 2020

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A. K. Bishnoi, Member (A)**

Neha Choudhary, w/o Rohit Kumar Chhikara
House No.968, 2nd Floor, Gali No.10
Palam Extension, Sector 7, Dwarka, Delhi

...Applicant

(Ms. Harini Raghupathy, Advocate)

Versus

1. GTB Hospital
Through the office of the Medical Director (ART Branch)
Govt. of NCT of Delhi
Dilshad Garden, Delhi – 110 095
 2. Delhi State AIDS Control Society
Through its Joint Director
Govt. of NCT of Delhi
Dharamshala Block, Dr. BSA Hospital
Sector 6, Rohini, Delhi – 110 085
 3. DDU Hospital
Through the Nodal Officer
ART Centre
Deen Dayal Upadhyay Hospital, Hari Nagar
Delhi – 110 064
- ...Respondents

(Ms. Purnima Maheshwari, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy:

The applicant was appointed as ART Counselor by Delhi State AIDS Control Society, Govt. of NCT of Delhi, the 2nd respondent herein, on 09.01.2016, on contract basis. The



contract was being extended from time to time, and the last of such extensions, was till 31.03.2020. It is stated that she was working in the Deen Dayal Upadhyay Hospital – 3rd respondent and when she was reported to duty on 01.04.2020, she was informed that her services were made over to the Guru Teg Bahadur Hospital, the 1st respondent. It is also stated that when she went to the said hospital, she was not permitted to join duty nor was paid salary by any of the respondents. The applicant states that she did not attend her duties from 16.03.2020 onwards, on account of her advance pregnancy and to keep the contract alive, she reported for duty on 01.04.2020 to the 2nd respondent.

2. On 19.05.2020, the applicant was served with an office order passed by the 1st respondent, which was to the effect that the Steering Committee has decided not to extend the contract of the applicant beyond 31.03.2020 on account of her gross unsatisfactory performance, indiscipline, unpunctuality and misbehavior towards staff. This O.A. is filed challenging the office order dated 19.05.2020 and with a prayer to direct the respondents to pay the salary.

3. The applicant contends that she was employed by the 2nd respondent and was posted with 3rd respondent, and the 1st respondent has no power or authority to terminate her services. It is also pleaded that the order of termination was passed at a time when the covid-19 situation was in full spate and lockdown



was imposed, and when the regular employees were also permitted to work from home. She submits that being a woman with advanced stage of pregnancy, she was unable to attend the duties for some days, and taking advantage of that, the impugned office order was passed without any jurisdiction and in an arbitrary manner.

4. On behalf of the respondents, a common counter affidavit is filed. It is stated that the applicant was not regular to her duty and her conduct was also not up to the mark apart from her behavior not being upto the mark. Instances of her being not cooperative with the fellow employees are cited. It is stated that the Steering Committee has taken into account, the performance of the applicant and has decided not to extend the contract beyond 31.03.2020. It is also stated that the applicant was required to be regular since the treatment in the hospital was in full swing for the patients during that time.

5. We heard Ms. Harini Raghupathy, learned counsel for applicant and Ms. Purnima Maheshwari, learned counsel for respondents, in detail, through video conferencing.

6. It is not in dispute that the applicant was employed by the 2nd respondent on contract basis. If there existed any circumstances for not extending the contract beyond 31.03.2020, it was for the 2nd respondent to take a decision in that behalf. The impugned order was passed by the 1st respondent and it reads as under:



"With reference to Ms.Neha Chaudhary's joining request as "ART Counselor" dated 01.04.2020, it has been decided unanimously by Steering Committee (ARTC) constituted by Worthy Medical Director, GTB Hospital that her term/contract can not be extended further since her previous term as a Counselor has already expired on 31st March, 2020 and her work and conduct report as communicated by DDU Hospital through various e-mails has been mentioned as grossly unsatisfactory on grounds of indiscipline, unpunctuality, misbehavior towards staff and colleagues and incapability to perform her assigned duties".

7. There was not even any reference to any decision that is said to have been taken by the 2nd respondent. Not being the employer of the applicant, the 1st respondent has no jurisdiction to terminate her services. The mere fact that some of the officials from the 2nd respondent participated in the Steering Committee makes no difference.

8. On facts also, we are not impressed by the steps taken by the respondents. The applicant was having pregnancy of about seven months in the second week of March, 2020. She is said to have remained absent for some days. That was a time when the lockdown was almost in the offing and even hale and healthy persons were afraid of stepping out of their homes. Expecting the applicant to be regular in attending the duties was something extraordinary.



9. Notwithstanding such a situation, the applicant dared and reported for duty on 01.04.2020. The respondents did not permit her to join, nor did they pay any salary. One and half months thereafter, they visited her with the impugned order. The aforesaid office order smacks of arbitrariness and reflects lack of human element on the part of the officials whoever were associated with the decision making. Assuming that the contract came to an end on 31.03.2020, the respondents were not justified in preventing the applicant from working beyond that date, just like that.

10. In ***Satish Joshi vs. Union of India in W.P. (C) 3215/2012 dated 20.03.2013*** Hon'ble High Court of Delhi dealt with the similar situation. There also, the services of a contractual employee were terminated as soon as the term expired. The Hon'ble High Court of Delhi took the view that as long as the work subsisted, there was no justification for terminating the services and in case the termination was on the basis of any unsatisfactory conduct of the employee, the principles of natural justice are required to be followed. The observations made by the Hon'ble High Court squarely apply to the facts of the present case.

11. We, therefore, allow the O.A. and set aside the impugned order. The respondents shall forthwith take the applicant into service and tentatively pay the salary for two months, within one week from the date of her reporting the duty. The



competent authority shall decide finally as to the extent of benefit available to her as a pregnant woman, and the amount of salary, that was required to be paid.

There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

September 8, 2020

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