

**Central Administrative Tribunal
Jammu Bench, Jammu**

Hearing through video conferencing

**Dr. Gulshan Younis Vs. D/o Health &
Medical Education, UT of J&K**

01.07.2020

Item No.9

OA No.61/127/2020

Present: Mr. M.I. Dar, counsel for applicant

Mr. Rajesh Thapa, DAG, for the respondents

Per Dr. Bhagwan Sahai, Member (A)

1. We have heard Shri M.I. Dar, learned counsel for the applicant and Shri Rajesh Thapa, AAG for the respondents.
2. Dr. Gulshan Younis, Medical Officer has filed this OA on 29.06.2020, seeking quashing of communication dated 11.05.2020 issued by the Chief Medical Officer (CMO), Kupwara and relieving order dated 11.05.2020 issued by the Block Medical Officer (BMO) Kupwara and order dated 13.06.2020 issued by the Director, Health Services, Kashmir (respondent no.2) ordering her posting at District Hospital, Pulwama. The applicant also seeks direction to the respondents to allow her to continue at Sub District Hospital, Kupwara and to conduct inquiry against respondent no.3 (Chief Medical Officer, Kupwara) for her high handedness and misuse of official position. She further seeks cost of this application from the respondents.

3. The applicant has averred in OA that she is working as Convenor of an organization named Civil Society, Kupwara. On 11.05.2020 when she was preoccupied in attending patients, she was suddenly summoned by the CMO, Kupwara in her chamber. She appeared and protested as to why she had been called suddenly, which amounted to interference in her official work. She also protested against the punitive action taken by respondents 3 and 4 in dislodging her from Sub District Hospital, Kupwara. It is stated that the charges leveled by respondent no.3 against her are incorrect and fallacious. Her transfer from Sub District Hospital, Kupwara was also protested by the civil society, Kupwara but the respondents have not reviewed her reliving from Sub District Hospital, Kupwara and her subsequent attachment with District Hospital, Pulwama.
4. The applicant further states that Inquiry Committee was constituted but its result is not known. Therefore, the action of the respondents is out of malafide and against the Supreme Court's decision in **Somesh Tewari Vs. Union of India**, AIR 2009 SC 1399. As such, the OA has been filed and interim relief by staying the communication of CMO dated 11.05.2020, her relieving order issued by the Block Medical Officer, Kupwara on the same date and the order of the Director, Health Services, Kashmir dated 13.06.2020, placing her services at District Hospital, Pulwama. Direction is also sought to the respondents to allow her to continue at Sub District Hospital, Kupwara.

5. The respondents' counsel has submitted that there have been instances of misconduct by the applicant. She has also indulged in getting certain adverse reports published in newspapers and ADM, Kupwara also ordered an inquiry, which is yet to be concluded.
6. Since the applicant has already been relieved by the order of Block Medical Officer dated 11.05.2020, there is no case for grant of interim relief.
7. We have considered the submissions of both sides.
8. However, in view of the fact that the applicant was relieved from her post as Medical Officer with Sub District Hospital, Kupwara on 12.05.2020, the request of the applicant for stay of order of her relief and subsequent posting now and allowing to work at Sub District Hospital, Kupwara, cannot be accepted. Therefore, the applicant's request in the OA for grant of interim relief, is rejected.
9. Issue notice on OA.
10. Respondents are directed to file detailed reply to the OA within four weeks from today. The applicant may file rejoinder within 3 weeks thereafter.
11. List for further orders on 3.09.2020.

(Rakesh Sagar Jain)
Member (J)

(Bhagwan Sahai)
Member (A)

/dkm/