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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP No.197/94 in OA No.444/86

NEW DELHI THIS THE 12th DAY OF JANUARY, 1995.

MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
MR.B.N.DHOUNDIYAL, MEMBER(A)

1. Ram Lal Dambla
Lab.Asstt.
Dte.of Health Services
Delhi Administration
(now Govt.of National Capital Territory of
Delhi.
Department of Medical,Public Health, North
Zone,Delhi.
2. Mrs.Subhadra
wife of Mr.R.B.Singh,
Lab Asstt.
Directorate of Health Services
Delhi Administration(now National Capital
Territory of Delhi)
In the Department of Medical & Public Health
in Civil Hospsital,Delhi.
3. Annima Easow,
Lab .Assistant,
Dte of Health Services,
Delhi Administration(now Govt.of National
Capital Territory of Delhi) in
South Central Zone,
Delhi
Dept.of M&P.H.
4. Cesley John,
Lab.Assistant
in the Dte. of Health Services,
Delhi Administration(now Govt.of National
Capital Territory of Delhi) in the
Department of Medical & Public Health,North
Zone, Delhi.
5. Alice Devessey,
Lab.Assistant in the Dte.of Health
Services, Delhi Administration(nowe Govt.of
National Capital Territory of Delhi) in the
Dept.of Medical & Public Health, North Zone,
Delhi.
6. Manju Kalgonkar,Lab.Asstt.
in the Dte.of Health Services, Delhi Admini-
stration(now Govt.of National Capital
Territory of Delhi) in the Department of
Medical & Public Health,
North Zone,Delhi.
7. Kamlesh Gupta, Lab Asstt.
in the DTe of of Health Services,
Delhi Administration(Now Govt.of National
Capital Territory of Delhi) in the Department
of Medical & Public Health,
South Central Zone,
Delhi.
8. Sarama John
Lab.Asstt. in the Dte.of
Health Services, Delhi Administration
(now Govt.of National Capital Territory of
Delhi)in the Deptt.of Medical & Public Health
South-Central Zone, Delhi.

(Sw)

9. Tripat Kanta, Lab Asstt.
in the Dte. of Health Services,
Delhi Administration (now Govt. of National
Capital Territory of Delhi) in the Department
of Medical & Public Health, Civil
Hospital, Rajpur Road,
Delhi.

10. Shashi Varni, Lab. Assistant
in the Dte of Health Services,
Delhi Administration (now Govt. of National
Capital Territory of Delhi) in the
Department of Medical & Public Health, West
Zone, Delhi.

11. Hemlata,
Lab. Assistant,
Dte of Health Services,
Delhi Administration (now Govt. of National
Capital Territory of Delhi) in the Department
of Medical & Public Health,
West Zone, Delhi.

12. George Mathew, Lab. Assistant
Dte of Health Services
Delhi Administration (now Govt. of National
Capital Territory of Delhi) in the Department
of Medical & Public Health, South Central Zone,
Delhi.

13. Neelam, Lab Assistant,
Dte of Health Services
Delhi Administration
(now Govt. of National Capital Territory
of Delhi) in the Department of Medical and
Public Health, West Zone, Delhi.

14. Mandhir Kaur, Lab Asstt.
Dte of Health Services,
Delhi Administration (now Govt. of National
Capital Territory of Delhi) in the Department
of Medical & Public Health, West Zone, Delhi.

15. Sri Chand, Lab Asstt.
Dte of Health Services,
Delhi Administration (now Govt. of National
Capital Territory of Delhi) in the Department
of Medical & Public Health, West Zone
Delhi. ... PETITIONERS

BY ADVOCATES SHRI M.L.CHAWLA AND
SHRI S.L.LAKHANPAL.

vs.

1. Shri P.P.Chauhan, Chief Secretary,
Delhi Administration
(now Govt. of National Capital Territory of
Delhi) Old Secretariat
Delhi.

2. Shri R.K.Sethi,
Secretary, Health Department
Delhi Administration
(now Govt. of National Capital Territory
of Delhi) Old Secretariat, Delhi.

BY ADVOCATE MRS. AVNISH AHLAWAT.

ORDER

JUSTICE S.K.DHAON.

The 15 petitioners have made a complaint that
the directions given by this Tribunal in its judgement
dated 6.7.1992 in OA No.444/86, filed by one Shri Pawan
Kumar Tyagi (he is not one of the petitioners) are not

being complied with so as to give to the petitioners the benefit given by this Tribunal to Shri Pawan Kumar Tyagi.

2. In OA No.444/86, one of the reliefs claimed by Shri Pawan Kumar Tyagi was that the respondents may be directed to place him(Sh.Pawan Kumar Tyagi) in the appropriate scale attached to the post of Laboratory Assistant,viz.,Rs.290-500 for the period 3.5.1981 to 22.8.1993 and Rs.330-530 since 23.3.1983 with all the financial benefits that have accrued to him.

3. In this contempt petition, the statement in the draft charges, as material, runs as follows:

" Even then the Respondent Contemners have issued an Order bearing No.F.69/7/92-M&PH dasted 10.1.1994 allowing the benefit of the judgement only to the applicant Shri Pawan Kumar Tyagi and no one else despite the specific direction of the Hon'ble Tribunal in Judgement dt.6.7.1992. Hence this C.P.because of their failure to take any action in the matter of other Lab.Assistants in the Dte. of Health Services and thereby flouting the direction specifically given by this Hon'ble Tribunal wilfully and deliberately and are thus guilty of contempt deserving suitable punishment of the Hon. Tribunal implemented."

4. It is evident that in this contempt petition, we are concerned with the failure of the respondents to give to the petitioners the aforementioned relief claimed by Shri Pawan Kumar Tyagi.

4. The direction, as material and upon which this contempt petition is founded, runs as follows:

"....We therefore direct the respondents to fix the scale of the applicant and the Lab. Assistants in the Health Directorate at Rs.290-500 from 1.11.82 and allow consequential benefits. This should be done early, preferably within 4 months from the date of receipt of a copy of this order."

5. It will be seen that neither of the petitioners before us was a party in the OA. It is also evident that Shri Pawan Kumar Tyagi did not file his OA in a representative capacity. It is also seen that the relief claimed by him was purely personal to him. The direction, therefore, should be treated to be applicable to the case of

Shri Pawan Kumar Tyagi. It is a trite law that a writ issued by a court/tribunal, unless otherwise stated, is in personam. Therefore, the petitioners in the contempt petition, cannot have any legitimate grievance that the respondents are wilfully disobeying the directions of this Tribunal in so far as they are not giving the benefit of the directions to them as well.

6. The learned counsel for the petitioners has laid considerable stress on the direction aforequoted that the fixation of the scale was to be done not only in the case of Shri Pawan Kumar Tyagi but also the Lab. Assistants in the Health Directorate.

7. Having considered the matter with due anxiety, we feel that the learned members who disposed of the OA made a passing reference to the Lab. Assistants in the Health Directorate. If, however, the learned members intended to issue a positive direction for the benefit of the Lab. Assistants in the Health Directorate as a whole, they in our respectful opinion, exceeded their jurisdiction on the short ground that such a relief had not been claimed in the OA.

8. The order passed by this Tribunal on 6.7.1992 was subjected to a review application. While disposing of the same on 8.10.1993, in para 2 of the order, we noted that Shri Pawan Kumar Tyagi initially impleaded the Delhi Administration (through the Administrator) Union Territory of Delhi as the sole respondent. We also noted that upon an application filed by Shri Pawan Kumar Tyagi, on 28.1.1987, this Tribunal directed the impleadment of the 4 following parties as respondents.

- (1) Delhi Administration through the Chief Secretary.
- (2) Union of India through the Secretary, Ministry of Home Affairs
- (3) Director General of Health Services
- (4) Delhi Administration through Secretary (Services)

9. In the contempt petition, it is to be noted that Shri P.P.Chauhan, Chief Secretary, Delhi Administration (Government of National Capital Territory of Delhi) and Shri R.K.Sethi, Secretary, Health Department, Delhi Administration are cited as respondents.

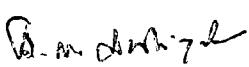
10. To the reply filed on behalf of the respondents, a copy of the letter dated 16.8.1993 written by the Under Secretary to the Government of India to the Secretary (Medical), Government of NCT of Delhi, has been filed as Annexure R1. The subject of this communication is the implementation of the orders of this Tribunal dated 6.7.1992 in the case of P.K.Tyagi vs.Union of India & others followed by CCP No.197/94 filed by the petitioners in the contempt petition. In para 2 of this communication, a reference is made to the letter dated 6.8.1993 issued by the Under Secretary in the Ministry of Health and Family Welfare, New Delhi wherein a decision with respect to other Lab.Assistants in the Directorate of Health Services has been conveyed.

11. A copy of the letter dated 6.8.1993 aforementioned has been filed as Annexure R2 to the reply filed on behalf of the respondents. This is a communication from the Under Secretary of the Ministry of Health to the Secretary (Medical), Govt.of National Capital Territory of Delhi. In it, the recitals, as material, are these. The proposal for implementation of the decision of this Tribunal has been carefully examined and it has been found that the request for revision of pay scales of the Lab.Assistants cannot be acceded to for the reason that the pay scale of the Lab.Assistants in the Central Government Hospitals before the implementation of the recommendations of the Fourth Pay Commission was Rs.260-430 and the revised pay scale of the Lab.Assistants in the Central Government Hospitals is Rs.975-1540 which is lower than that of the scale decided by this Tribunal. The fact that the

identical posts in Central Government Hospitals carry lower scale, as such higher scale cannot be permitted to the Lab.Assistants working in the Delhi Administration, may be brought to the notice of this Tribunal.

12. On the basis of the aforementioned two communications of the Government of India, Mrs.Avnish Ahlawat, learned counsel for the respondents, urged that, whatever may the reason, since the Central Government has not agreed for the fixation of the revised scale of the Lab.Assistants other than Shri Pawan Kumar Tyagi, it cannot be said that the respondents to the contempt petition are wilfully disobeying the directions of this Tribunal. She has also urged that in the contempt petition, the Central Government is not cited as one of the respondents. This according to her, is an additional ground for not giving relief to the petitioners. We find force in the submissions of Mrs.Ahawat. Assuming that this Tribunal had issued and a positive binding direction to the Government of National Capital Territory of Delhi to fix the pay scale of Lab. Assistants working under Government, under the circumstances, as stated above, it cannot be said that they are wilfully disobeying the directions of this Tribunal. In the facts and circumstances of this case, non-impleadment of the Central Government as one of the respondents is fatal.

13. This contempt petition fails and is dismissed. Notices of contempt are discharged. There shall be no order as to costs.


(B.N.DHOUNDIYAL)
MEMBER(A)


(S.K.DHAON)
VICE-CHAIRMAN(J)

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