

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1028/91
T.A. No.

199

DATE OF DECISION 17.9.1991

<u>Shri Kanwar Singh</u>	<u>Petitioner Applicant</u>
<u>Shri G.D. Bhandari</u>	<u>Advocate for the Petitioner(s) Applicant</u>
Versus	
<u>Delhi Administration & Others</u>	<u>Respondent</u>
<u>Smt. Avnish Ahlawat</u>	<u>Advocate for the Respondent(s)</u>

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

● The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. P.K. Kartha, Vice-Chairman)

The applicant has worked as a daily-wage/casual L.D.C. in the Office of Chairman, Examining Body, Delhi Administration from 4.2.1988 to 22.5.1991. The present application was filed on 29.4.1991. On 3.5.1991, the Tribunal passed an interim order directing that he shall not be terminated if vacancy is available and that no other ad hoc appointment should be made to replace his services.

2. We have heard the learned counsel for both the parties on the question of preliminary objections raised

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by the respondents as to the maintainability of the present application. The Examining Body has been constituted under Section 31A of the East Punjab Ayurvedic and Unani Practitioner Act (Delhi Amendment) Act, 1954. Section 31A reads as follows:-

- "31A(1) The Chief Commissioner may, by notification in the Official Gazette, constitute an notification in the official Examining Body to be known as the 'Examining Body for Ayurvedic and Unani Systems of Medicine, Delhi', for the purpose of holding qualifying examinations and prescribing the courses of study and training for such examinations and other related matters.
- (2) The Examining Body shall be body corporate with the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property and to contract, and shall by the said name sue and be sued.
- (3) The Examining Body shall consist of the following seven members, to be nominated by the Chief Commissioner, namely:-
- (a) One member to represent the Ministry of Central Government dealing with health.
 - (b) One member to represent the Medical and Health department of the Administration of Delhi.
 - (c) One Member who shall be a professor of Modern Medicine or Ayurvedic Medicine of Unani System of Medicine as the Chief Commissioner may determine;
 - (d) One member who shall be a professor of Ayurvedic system of medicine.
 - (e) One member who shall be a professor of Unani system of medicine.
 - (f) A practitioner of repute of Ayurvedic system of medicine.
 - (g) A practitioner of repute of Unani system of medicine.
- and the Chief Commissioner shall nominate one of the members to be the Chairman of the Examining Body."

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3. The aforesaid enactment further provided that the Examining Body shall, with the previous approval of the Chief Commissioner, appoint a secretary and such number of other employees as it may deem necessary and they shall receive such salary and allowance and be subjects to such conditions of service as the Examining Body may, with the previous approval of the Chief Commissioner, prescribe by regulations, and that the Secretary and other employees of the Examining Body shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

4. In view of the foregoing provisions, the respondents have contended that the Examining Body is an autonomous body and that it is not a Department of the Delhi Administration. Since the applicant is an employee of the Examining Body, it has been argued that this Tribunal has no jurisdiction to entertain the present application.

5. It is clear from the provisions of Section 51-A, extracted above, that the Examining Body is a separate legal entity which can sue and be sued ~~as~~ by its name. That being the position, we are of the opinion that the Tribunal has no jurisdiction to adjudicate upon the service matters of employees engaged by the Examining Body notwithstanding the fact that it is under the administrative control of the Delhi Administration.

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6. We, therefore, hold that the present application is not maintainable. The Registry may return the papers to the applicant for presenting the same in appropriate legal forum to seek redressal of his grievances, if so advised.

B.N. Dhondiyal
(B.N. Dhondiyal) 12/5/81
Administrative Member

F.K. Kartha
12/5/81
(F.K. Kartha)
Vice-Chairman (Jd.)