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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 2104/2004

New Delhi this the 17th day of January, 2005

Hon'ble Mrs. Meera Chhibber, Member (J)

Smt. Rajwati,
wife of Shri Gulab Singh
Nursing Sister-incharge
GTB Hospital, Mansik O.P.D.,
Delhi-110095
R/O A-1/107, D.L.F.Colony Extn.II,
Ghaziabad, UP

.. Applicant


(By Advocate Shri K.P.S.Chauhan)

VERSUS

1. Govt.of NCT of Delhi through
Chief Secretary, 5, Shamnath Marg, Delhi.
2. Medical Superintendent,
G.T.B.Hospital, Shahdara, Delhi.
3. Nursing Superintendent,
G.T.B.Hospital, Shahdara, Delhi.
4. Smt. R.D.Varun,
Deputy Nursing Superintendent
GTB Hospital, Shahdara, Delhi.
5. Smt. R.D. Kumar
Deputy Nursing Superintendent
GTB Hospital, Shahdara, Delhi-95
6. Smt.V.K.Kataria,
Nursing Superintendent,
GTB Hospital, Shahdara, Delhi-95
7. Dr.B.R.Chanda,
Asstt. Nursing Superintendent
G.T.B.Hospital, Shahdara, Delhi-95
8. Smt. Asha Khullar,
Asstt. Nursing Superintendent,
GTB Hospital, Shahdara, Delhi-95

.. Respondents

(By Advocate Shri Vijay Pandita)



ORDER (ORAL)

(Hon'ble Mrs. Meera Chhibber, Member (J))

By this OA, applicant has sought the following reliefs:

- (a) That the respondents be directed to quash the relieving order served on the petitioner/applicant by the respondents;
- (b) That the respondents also be directed to release the pay for the month of July, 2004 to the applicant/petitioner as the petitioner/applicant kept marking her attendance in the Attendance Roll being maintained in Mansik O.P.D., G.T.B. Hospital, Shahdara, Delhi.

2. The brief facts as alleged by applicant are that she was posted as Nursing Sister Incharge at Mansik O.P.D., G.T.B. Hospital, Shahdara. The subordinate staff is not cooperative and due to their behaviour, she had complained the matter from time to time. This behaviour was due to the instigation by Smt. B.K.Kataria, Smt. R.D.Varun and Smt.R.D.Kumar because applicant belonged to Scheduled Caste. Similarly the Nursing Superintendent also did not hear her valid grievance and pushed her away from his office. She gave complaint to the Chief Minister and Chief Secretary as no heed was being given to her complaints by the higher authorities, for which a show cause notice was given to her on 29.6.2004 to explain why she approached the Chief Minister in contravention of Rule 20-A of CCS (Conduct) Rules, 1964.

3. On 1.7.2004, applicant was called by Smt. R.D.Varun in her office and forced to sign on two envelopes by threatening her that in case she does not sign, they would call the police and lodge a report that she was stealing the bag. When the applicant opened the said closed envelopes, she came to know that she had been served the relieving order in pursuance of her transfer order, which was never served on her in the past. The applicant made a complaint to the police with regard to the above incident.



4. Respondents on the other hand have submitted that applicant has not challenged the transfer order dated 29.6.2004 issued by Health Department of Govt. of NCT of Delhi. Reliving order was issued only pursuant to order dated 25.6.2004 of transfer. The LPC and service book of the applicant has been forwarded to the Directorate of Health Services (DHS) but DHS has not been impleaded as a party whereas her salary from July, 2004 can be released only from her new place of posting in accordance with rules after joins there. Moreover, the distance from GTB hospital to DHS is only 2/3 Kms. They have denied the charges of harassment and have submitted that as the applicant stands relieved from GTB Hospital w.e.f. 30.6.2004 (AN), she would be entitled to pay only after she reports for duty in DHS, to which she was posted on her transfer from GTB Hospital by Health and Family Welfare Department, Govt. of NCT of Delhi.

5. They have explained that no complaint was received from her regarding late coming/early departure of her subordinates. Applicant was posted in Psychiatry OPD w.e.f. 17.11.2003 as per her request for change vide her application dated 29.10.2003 (Annexure R-5). They have further submitted that applicant did not follow the channel prescribed for redressal of grievance, if any and approached the Chief Minister directly, which amounts to violation of Rule 20 of CCS (Conduct) Rules, 1964. Therefore, she was rightly given show cause notice.

6. In reply to her averment that she was made to sign on two envelopes forcibly, respondents have stated that if that was so, she should have approached the office of Medical Superintendent, GTB Hospital or the Principal Secretary (Health). No such steps were taken by her therefore the OA is barred by Section 20 of the Administrative Tribunals Act as she has not exhausted the remedy.

7. Once she had been relieved from GTB on 30.6.2004 with direction to report to the DHS, F-17, Karkardooma, Delhi, she was required to report compliance at the new place. Instead, she forcibly put her signatures in the attendance register at GTB



meant for staff nurse subordinate to the applicant, which renders her liable for disciplinary action to be initiated against her by the appointing authority.

8. They have further submitted that she has already taken up her cause of atrocities in the form of application dated 13.7.2004 under Section 3 of the Scheduled Caste and Scheduled Tribes Prevention of Atrocities Act, 1988 under the guise of atrocities. The next date of hearing in the court of Shri R.B.Singh, MM Shahdara was 27.10.2004. She has submitted different letters on different dates on different issues while working in GTB Hospital, which have no relevance with her transfer.

9. In rejoinder applicant has reiterated her stand.

10. I have heard both the counsel and perused the pleadings as well. Admittedly, applicant has not challenged her transfer order dated 25.6.2004 whereby she was transferred from GTB to DHS by the Additional Secretary (Health) (Annexure III to the counter). Once she was transferred, relieving was just the follow up action. Grievance of applicant is that she was not given the transfer order but was relieved on 1.7.2004. However, a perusal of documents annexed by herself show that in reply dated 2.7.2004 to show cause notice dated 29.6.2004, applicant had written in Para 6 that the transfer order is undated. Similarly in her complaint dated 3.7.2004, addressed to the Commissioner of Police (page 43), she has written that she was made to sign on transfer order undated forcibly, which clearly shows that the transfer order was indeed served on her on 1.7.2004 and she was relieved also on 1.7.2004. She has neither given any representation against her transfer or relieving to the competent authority nor has challenged the transfer order even in this OA. Therefore, even if her averments are taken to be correct for the sake of argument, once she was aware about her transfer and was relieved, she should have joined the place of her posting at least thereafter. She admittedly chose to give a complaint to the Commissioner of Police, who is not the competent authority as far as applicant's transfer and relieving are concerned because transfer is an incidence of service. Therefore in case she had any grievance, she ought to have given representation to

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the competent authority. Since no such steps were taken, the present OA is premature. However instead of dismissing the OA on this ground, I think it would be better if this OA is decided on merits because applicant seems to be unhappy with one and all. She has stated that her subordinate staff used to humiliate her and were not cooperating. Similarly, her juniors/seniors were also not behaving properly and used to call her names at GTB because she belonged to Scheduled Caste. However, for this purpose, she has already filed a separate complaint before the ACMM. Therefore, that aspect of the matter cannot be looked into by this Court as her complaint would be looked into by the Learned ACMM in accordance with law.

11. Coming back to her grievance regarding non-payment of salary w.e.f. July 2004, it goes without saying that transfer is an incidence of service and she has been transferred from GTB to DHS, Kardooma within Delhi. I think looking at her various allegations made against almost all the staff members, the said transfer is in her own interest as she would have better atmosphere in new place and would not have to face humiliation, as alleged by her. She has, therefore, rightly not even challenged the transfer order. As observed above, she was served the transfer order on 1.7.2004 as per her own letters. If that be so and she was given the relieving order also on 1.7.2004, then she ought to have reported in the office of the DHS at least after 1.7.2004. After 1.7.2004, she had no right to mark her attendance at GTB hospital, that too in the register meant for sister nurse, who was working under the applicant. Moreover, merely by signing the register at GTB hospital after she stood relieved, she cannot claim salary from GTB hospital. Therefore, the relief as claimed by her cannot be granted to her.

12. Admittedly, she has not yet joined the DHS. Her salary can be released only by DHS in accordance with rules after she joins the office at DHS. Therefore, applicant should join the office of DHS at least now at the earliest. In case applicant joins DHS, they shall pass appropriate orders in accordance with law for deciding the intervening period. In case applicant has any other valid grievance pertaining to her service conditions, she is given liberty to give representation to the competent



authority narrating all the facts. In case she gives such a representation to the competent authority, I am sure authorities will look into it and pass appropriate speaking orders thereon within a reasonable period under intimation to the applicant.

13. With the above directions, OA is disposed off. No order as to costs.



(Mrs. Meera Chhibber)
Member (J)

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