

27

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2282/2004

New Delhi, this the 16th day of May, 2005

**Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A.Singh, Member (A)**

1. Dr. Ajay Kumar Gupta
Sr. Radio Therapist
S/o Late P.K. Gupta
B-389, Nirman Vihar
Vikas Marg, Delhi - 92.
2. Dr. Mahesh Kumar Mittal
Specialist (Sr. Scale), in Radio Diagnosis
Safdarjung Hospital
New Delhi.
3. Dr. Jagan Nath Mohapatra
Sr. Paediatrician
S/o Sh. Udhab Chandra Mohapatra
631, Laxmi Bai Nagar
New Delhi -23.
4. Dr. Shib Das Chakraborti
S/o Sh. C.R. Chakraborti
D-3, Type-IV
Safdarjung Hospital Flats
West Kidwai Nagar
New Delhi - 23. ... Applicants

(By Advocate: Sh. Satish Kumar)

Versus

1. Union of India
Through Secretary
Ministry of Health & F.W.
Nirman Bhawan
New Delhi - 1.
2. Medical Superintendent
Safdarjung Hospital
New Delhi - 29. .. Respondents

(By Advocate: Sh. V.S.R.Krishna)

O R D E R(Oral)

By Mr. Justice V.S. Aggarwal:

Applicants are working as Doctors in different disciplines in Safdarjung Hospital, New Delhi. By virtue of the present application, they seek to assail the Office Memorandums of 2.8.2004, 29.5.2003 and 24.6.2004.

2. The sum and substance of the controversy raised is that the salary of the applicants had been fixed but without following the principles of natural justice, the same had been reduced and the benefit is being withdrawn. It is contended that the applicants have even been asked to pay back certain amounts which are stated to be the excess payments.

3. The petition is being contested.

4. Learned counsel for the applicants raised the following contentions:

- (1) The excess amount that had been paid, without any fault on behalf of the applicants, could not have been withdrawn;
- (2) The salary in any case had been ^{earlier} fixed correctly; and
- (3) That while doing so, when the impugned orders were passed, no notice to show cause had been issued.

5. For the present, we are only taking into consideration the third contention.

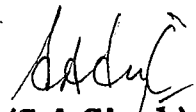
6. The settled principle in law is that when civil rights of the opposite party is affected, it is in the fitness of things that a notice


ls Aggarwal

to show cause is issued and after considering the representation, if any, proper order should be passed.

7. In the present case, the salary had been reduced retrospectively and there is precious little on the record for us to see that before doing so, no notice to show cause was issued to the applicants.

8. Resultantly, we allow the present application and quash the impugned orders. It is directed that before passing any such order, the principles of natural justice should be adhered to.


(S.A.Singh)
Member (A)


(V.S.Aggarwal)
Chairman

/NSN/