

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 2351/2004

New Delhi this the 24 th day of February, 2005

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

Dr. Nathu Lal, CMO (NFSG),
Son of Shri Devi Dass,
119, Laxmi Bai Nagar,
New Delhi.
Employed at Delhi Government Health
Centre, Rajokri, New Delhi-110038

..Applicant

(Applicant present in person)

VERSUS

1. The Union of India
through its Secretary,
Ministry of Health and Family Welfare,
(Department of Health),
Nirman Bhawan, New Delhi.
2. The Additional Director,
Office of the Additional Director,
CGHS, Nirman Bhawan, New Delhi.
3. The Additional Director (SZ),
Office of the Addl. Director,
CGHS, South Zone, R.K.Puram,
Sector-8, New Delhi-110022
4. The Senior CMO Incharge,
Office of the Sr.CMO Incharge,
CGHS Dispensary No.12,
Kidwai Nagar (East), New Delhi.

..Respondents

(By Advocate Shri V.S.R. Krishna)

O R D E R

By this OA, the applicant has sought the following reliefs:

- 8.1. To adjudicate the Government of India order No. A.22012/1/2003-CHS.1 dated 26.3.2003, Annexure A4, because:

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a) Interim relief in the mentioned OA 1116/2003 is/was not given to me by the Hon'ble Tribunal without looking into or appreciating the facts and circumstances of the OA on record in accordance with the provision of sub-section (2) of Section 22 of Administrative Tribunals Act, 1985, i.e., perusal of the records/OA.

b) Salary for the period 05.08.2003 to 29.04.2004 is/was not given to me as in regular vide the CDMO, SWD, D.H.S., Government of NCT of Delhi, office order F.No.1 (38)/DHS/CDMO/SWD/2003-04/1017 dated 9.12.2003, Annexure A23.

c) Mentioned OA No. 1116/2003 is/was made infructuous on my joining Government of NCT of Delhi w.e.f. 05.08.2004 without any fact or law on record, for such an order, in violation of the provision of Clause (2) of Article 310 of the Constitution of India as, a post of CMO (NFSG), otherwise, post held by me, if any, was vacated under CGHS Delhi, as apparent on the face of the order, by movement of officer at Sl.No.1 to the post or place of officer at Sl.No.2. And officer No.3, i.e., myself, "vacating" a post under CGHS Delhi to fill no post of CMO (NFSG) under the Government of NCT of Delhi as, by the office order F.No. 10/DHS/CDMO/SWD/03-4/124-26 dated 29.8, Annexure-A24, 1 was posted, at DAD Kapashera, against no post, under D.H.S. Government of NCT of Delhi, as the post was already occupied by Dr.Brijesh Kumar, who was on duty : IPPIP duty in field.

8.2. In consequence of the adjudication of the order dated 26.3.2003, Annexure A4, or, the impugned office order dated 23.4.2001, Annexure A1, above, all consequential benefits (Special Compensatory payment, in the facts and circumstances of the case, in accordance with Clause (2) of Article 310 of the Constitution of India) to the mentioned OA may graciously be pleased ordered allowed to me".

It is seen that applicant had earlier also filed OA number 1116/2003 challenging the order dated 26.3.2003 wherein he had sought the following reliefs:

(1) The Hon'ble Tribunal may kindly be pleased to quash and set aside the impugned order No.A.22012/1/2003-CHS-1 dated 26 March 2003 (Annexure 'A') whereby the applicant has been illegally and arbitrarily transferred from CGHS Dispensary, Kidwai Nagar, New Delhi to GNCT Delhi and direct the respondents to allow the applicant to join his duty at CGHS Dispensary, Kidwai Nagar with all consequential benefits.

(2) Secondly to quash the impugned order F.No.1-1/2000 MO/CGHS/SZ/417 dated 23.04.2001 (Annexure B) whereby the applicant while working at CGHS Dispensary, Hauz Khas, New Delhi was transferred and posted at CGHS Dispensary, Kidwai Nagar, New Delhi (Temporarily) against a permanent post and the period w.e.f. 24.04.2001 till date may please be considered against a permanent post.

(3) Thirdly to quash the impugned order No. 19-8/2000- CGHS/SZ/Cash/546 dated 17.04.2003 (Annexure C) whereby the



applicant is being treated absent without taking into consideration his leave application and C/L and E/L being on his credit. The applicant vide this particular impugned order is being given only 3 days pay on 17.04.2003 for the month of April, 2003.

(4) Any other relief which the Hon'ble Tribunal deem fit and proper be granted in favour of the applicant and against the respondents with cost".

The said OA was decided along with RA 181/2003 in MA 1180/2003 vide order dated 10.10.2003. The Single Member of the Tribunal disposed of the said OA as having become infructuous. As far as the issue of non payment of salary was considered, it was observed that applicant shall make a consolidated representation to the department and department shall decide his claim for wages for the intervening period within a period of one month from the date of receipt of the representation from the applicant (pages 101 to 103). From the perusal of the OA, it seems that the applicant was not happy with the order passed by the Tribunal on 10.10.2003 and is, in fact, trying to re-agitate the matter by filing the present OA, on the ground that earlier Tribunal had not looked into the facts and circumstances of the case and not decided the case on merits which ought to have been done. If the present OA is adjudicated upon now, it would amount to ignoring the earlier order dated 10.10.2003 passed in OA No. 1116/2003.

2. It goes without saying that once applicant had challenged the orders dated 26.3.2003 and 23.4.2001 in the earlier OA and if the same had not been decided on merits, the remedy available to the applicant was either to challenge the said order before the Hon'ble High Court of Delhi or to file a review application before the same Bench. Applicant cannot be permitted to file a second OA for challenging the orders dated 26.3.2003 and 23.4.2001 all over again when his earlier OA for this purpose was already disposed of by the Tribunal. Since the order dated 10.10.2003 had been passed by a coordinate Bench, I cannot sit in an appeal over the said order nor can comment on the correctness or otherwise of the said order which applicant is trying to state in the present



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OA. Therefore, to that extent the present OA is not maintainable. The same is accordingly dismissed. No order as to costs.


(Mrs. Meera Chhibber)
Member (J)

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