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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.318/2004

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

New Delhi, this the 30th day of September, 2004

**Dr.M.S. Prasad,
S/o late Shri Ramji Prasad,
R/o B-22, Nivedita Kunj,
Sector-X, R.K. Puram,
New Delhi-22**

....Applicant

(By Advocate: Shri D.S. Chaudhary)

Versus

- 1. Union of India,through
The Secretary,
Ministry of Health and Family Welfare,
Department of Health,
Nirmal Bhawan, New Delhi-1**
- 2. Govt. of NCT of Delhi,
Through the Secretary (Medical)
M & P.H. Department,
5, Shamnath Marg, Delhi-54**
- 3. Medical Superintendent,
GTB Hospital, Dilshad Garden,
Delhi-95**

....Respondents

**(By Advocate: Shri V.S.R.Krishna, for respondent 1
Shri Vijay Pandita, for respondents 2 and 3)**

Order(Oral)

Justice V.S. Aggarwal, Chairman

**During the course of submissions, the controversy narrowed down to the
fact:**

- (a) whether this Tribunal should entertain the petition when it has
been mentioned that the controversy is pending in the Delhi
High Court;**
- (b) whether the applicant is entitled to the salary from 15.11.94 to
21.5.95; and**
- (c) whether from 6.12.94, the applicant is entitled to full salary or
not.**

(Signature)

2. Some of the other facts can conveniently be mentioned to delineate the question in controversy.

3. The applicant had joined Central Health Service as a Specialist (Pediatrics). On 7.10.92, he proceeded on foreign assignment. We are not going into the controversy as to whether he had gone on sanctioned leave or not but suffice to say that on 28.1.94, the applicant is alleged to have received a letter to join his duties in India immediately.

4. Henceforth, the controversy which is ripe for decision in the present application comes up for consideration. The applicant contends that he reported to Medical Superintendent, GTB Hospital (respondent no.3) on 15.11.94 for joining duty but he was made to shuttle between different departments and was finally allowed only to join much later. He claims that he is entitled to salary from 15.11.94.

5. At this stage, it is relevant to mention that the period from 6.12.94 to 21.5.95 has been treated as period for "compulsory wait".

6. These being the facts, we revert back to the questions in controversy which we have referred to above. It was explained to us that the matter pending before the Delhi High Court is pertaining to the fact before the applicant had joined in India and, therefore, since that controversy is not ripe, in this petition we are of the considered opinion that pendency of the matter in the Delhi High Court should not deter us to decide the present dispute.

7. Regarding question no.2 with respect to the period from 15.11.94 to 21.5.95, the applicant's learned counsel, relying on Annexure A-2, pointed that the applicant had reported for duty to the Medical Superintendent on 15.11.94 and therefore, he is entitled to full salary for this period.

8. We would have gone into other details but the applicant himself has been writing to the Secretary, Government of India on different occasions claiming the pay and allowances only from 6.12.94. We refer to the letter of the applicant dated 29.3.96 which reads as under:

Ref: My application dt. 04.09.1995, forwarded vide letter No.827-9/95/CGHS/SJH on the above subject.

Sir,

A kind reference is invited to my previous application under reference above. This is for your kind information and necessary action, that I have not received salary till date.

I, once, again request you kindly to make necessary arrangements for payment of pay and allowance admissible to me as per rules w.e.f. 06 Dec. 1994.

I shall be obliged for this kind favour.

Thanking you,

Yours faithfully,

Sd/- 29.03.96

9. Similar letter has again been addressed by the applicant to the Secretary, Government of India, Ministry of Health dated 5.8.96 claiming the salary from 6.12.94 followed by another letter of 29.1.2001 which again reads as under:

"Madam,

I may have this opportunity to invite your kind attention to the discussion during hearing on 24.1.2001. I look forward for your kind intervention and needful for payment of salary to me for the period from 06 DEC 1994 (F/N) to 21 MAY 1995 (A/N).

The enclosed herewith documents are speaking and self-explanatory. The chronology of events is also given on the following pages.

Your kind necessary action is sincerely requested.
Thanking you,
Yours faithfully,
Sd/-
Dr.M.S. Prasad"

10. Keeping in view the applicant's own letter whereby he claimed the arrears only from 6.12.94, we hold that we should not grant the said relief to the applicant.

11. However with respect to the last prayer, admittedly from 6.12.94 to 21.5.95, it has been treated as a period of "compulsory wait". The respondents have paid the salary but we are informed that it does not include the House Rent Allowance and even the Interim Relief which has been granted to other employees.

12. Keeping in view these facts, it is directed and O.A. is disposed of with the direction that the respondents should re-calculate the amount due to the

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applicant from 6.12.94 to 21.5.95 including HRA and Interim Relief granted to other employees. The payment of the arrears, if any, should be made within two months of the receipt of the certified copy of the present order. O.A. is disposed of.


(S.A. Singh)

Member(A)


(V.S. Aggarwal)
Chairman

/dkm/