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In the Central Administrative Tribunal
Principal Bench: New Delhi

OA No.60/93

Date of decision: 11.01.93.

Shri Chander Pal & Others

...Petitioners

Versus

Union of India through the
Administrator, Union Territory of
Delhi & Others

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member(A)

For the petitioners

Shri D.K. Rustogi, Counsel.

Judgement(Oral)

Heard. The relief sought for by the petitioners is that the impugned order (Annexure A-1) dated 1.1.1993 in respect of the petitioners who figure at serial Nos. 1, 3 and 5 of the said order should not be implemented. As interim relief it is prayed that in their respect this order should be held in abeyance. The petitioners who are working as Pharmacist have been transferred from the L.N.J.P. Hospital to D.H.S. Both the organisations function under the Delhi Administration. The case of the petitioners is that their appointment letters were issued by the Medical Superintendent, Irwin Hospital and were initially made on ad hoc basis w.e.f. 30.10.1973 in respect of petitioner No.1 and 6.2.1974 in respect of petitioners No. 2 and 3. Their services were regularised vide order dated 15.6.1974. The petitioners appear at serial No.5, 9 and 11. The said order, however, states that the petitioners will continue to work in a temporary capacity till further orders.

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2. In this context, the learned counsel referred me to an order passed on 16.6.1992 by the Vacation Bench, according to which the petitioner placed in similar circumstances had approached the Court, which passed the order that the applicant should file a representation with the concerned authority with the further direction that the concerned authority shall consider the representation and pass a speaking order thereon within two weeks. According to the learned counsel the petitioners are placed in identical circumstances and they have been transferred from the L.N.J.P. Hospital to D.H.S. He seeks interim relief that an ex-parte stay be granted from the operation of the impugned order (Annexure A-1) dated 1.1.1993.

3. It is now well settled that in cases of transfer the petitioners are required to make a representation to the administration and in case representation is rejected they will have to proceed to the new place of posting. The L.N.J.P. hospital and the D.H.S. both are under Delhi Administration. Therefore, the right course for the petitioners would be to make a representation to the concerned authority, explaining their circumstances as to why they would not like to go to the next place to which they are transferred.

4. Another issue raised by the learned counsel was that the transfer has been made in violation of the terms and conditions of the appointment order. He is, however, not in a position to produce the terms and condition of employment except the letters of appointment which the petitioners were issued. These letters do not lay down any terms and conditions which are violated by the order of transfer.

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5. In the circumstances of the case, the O.A. is disposed of with the direction that the petitioners shall make a representation to the concerned authority, seeking redress of their grievances and the competent authority shall consider their representation within a fortnight they receive the said representations and pass an order and convey the same to the petitioners. If the petitioners are aggrieved thereafter they shall be at liberty to approach the Court, if so advised. No costs.

6. After this order was dictated, the learned counsel submitted that he would like to file a copy of the order dated 5.1.1993 according to which the petitioners have been relieved from their duties with immediate effect with the direction to report for duties to the Directorate General of Health Services, Saraswati Bhawan, New Delhi. I have perused the said order. The order passed as above does not require to be changed consequent to the issue of order dated 5.1.1993. The order dated 5.1.1993, however, be kept on record.

San.


(I.K. RASGOTRA)
MEMBER(A)