



Central Administrative Tribunal Jammu Bench, Jammu

T.A. No. 8236/2020
(SWP No. 1166/2016)

This the 8th day of March, 2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

1. Dr. Sabia Sikander
W/o : Dr. Hilal Razvi
R/o : Noorani Colony,
Peerbagh Srinagar (Age 39 years)
2. Dr. Hilal Razvi
S/o : Ghulam Mohammad
R/o : Noorani Colony,
Peerbagh Srinagar (Age 39 years)

...Applicants
(None for applicants)

Versus

1. State of Jammu and Kashmir through
Commissioner/ Secretary to Govt., Health & Medical
Education Department, Civil Secretariat, Srinagar/Jammu.
2. Director Health Services Kashmir, Srinagar.
3. Director Health Services Jammu (J&K).

... Respondents

(Sh. Sudesh Magotra, Deputy Advocate General)

ORDER (ORAL)

Justice L. Narasimha Reddy:

The applicants are spouses. The first applicant was appointed as Assistant Surgeon in the year 2005 and the second applicant as B-Grade Specialist in Medicine, in the year 2009 in



the Jammu and Kashmir Health Services. The Government took note of the grave situation arising out of a quite large number of doctors, not joining their duties, whether on expiry of leave or on account of unauthorized absence. A general notice was published on 15.05.2015 and 19.05.2015, respectively, requiring such doctors to report to duties immediately. The same were also published in the newspapers. Ultimately, an order was passed on 04.03.2016, stating that the doctors, whose names were furnished in the list, have not joined their duties, despite final opportunity, shall be deemed to be not interested in service any more. The names of the applicants figured therein. They filed SWP No. 1166/2016, challenging the order dated 04.03.2016, in so far as they relate to them.

2. The applicants contend that they had to go on leave on account of pressing domestic problems and though they went on submitting applications for grant of extension of leave, they were not responded to. They stated that the impugned order cannot be sustained either on facts or in law.
3. The SWP has since been transferred to this Tribunal in view of the reorganization of the State of Jammu & Kashmir and renumbered as TA No. 8236/2020.
4. The respondents did not file any reply.

5. Today, there is no representation on behalf of the Applicants. We heard Shri Sudesh Magotra, learned Deputy Advocate General, for the Respondents.



6. It is a matter of record that the first applicant was appointed in the year 2005 and the second applicant in the year 2009 in the Medical Department of the State of Jammu and Kashmir. However, the Writ Petition was totally silent as to the date on which they have proceeded on leave or remained absent. It is equally silent as to when they sought to join the duty or whether they were prevented from doing so. A bare perusal of the impugned order discloses that the Government took note of the fact that quite a large number of doctors were not attending to their duties either without applying for their leave or overstaying the leave. In the case of the applicants, there is no leave at all. They remained absent on their own accord. The list comprises of 80 doctors and it only shows the gravity of the situation.

6. The impugned order clearly states that in spite of repeated opportunities being given to the doctors to come and join, they did not do so. It was not even a disciplinary action. The Department or Government, that too connected with the Health Services, cannot be expected to be a mute spectator for the unauthorized absence of the Medical Officers. The Doctors appointed by the Government will not be doing any favour by attending to their duties. It must not be forgotten that they came

to be selected at a time, when there was stiff competition and if they were not interested in attending to duties, there were many others, who were prepared to serve the Government, and thereby public.



7. The applicants cannot have the luxury of being on the rolls of the Government on the one hand, and then remain absent for years together. One serious problem is that as long as such doctors remain on the rolls, the posts cannot be held by others. It is only when their names are struck off, that steps can be taken for appointing others, so that the people are provided with health services. If they are so conscious, at least they could have responded to the clarion call given by the Government and joined the duties. They waited till the order is passed and are making an issue out of it.

8. We do not find any merit in the TA. The TA is accordingly dismissed. The appointments made by the respondents during the pendency of the TA shall not be effected. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/sunil/sunita/ns/akshaya/dsn/sd