

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.1009 OF 2003
ALLAHABAD THIS THE 29TH DAY OF AUGUST, 2003

HON'BLE MAJ GEN K.K. SRIVASTAVA, MEMBER

Dr. K.D. Saini,
S/o Late Shri H.R. Saini,
R/o B 59/3 Rajendra Puram,
Mawana Road,
Meerut.Applicant

(By Advocate Shri Nitin Sharma)

Versus

1. Union of India, -
through the Secretary Health,
Ministry of Health and Family Welfare,
Nirman Bhavan,
New Delhi.
2. Deputy Secretary to Government of India,
Ministry of Health and Family Welfare (Dept. of Health),
Nirman Bhavan,
New Delhi.
3. Director General Health Services,
Nirman Bhavan,
New Delhi.Respondents

(By Advocate Shri R.C. Joshi)

ORDER

This O.A. has been filed under section 19 of
Administrative Tribunals Act 1985, challenging the order dated
31.07.2003 by which the applicant has been declared as 'stands
relieved'. The applicant has prayed for quashing the impugned
order with direction to respondents not to interfere in the
applicant's functioning on the post of CMO (NFSG) at CGHS,
Meerut.

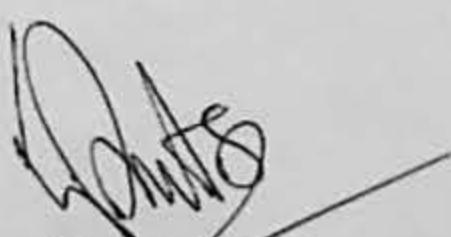


2. The facts, in brief, are that the applicant by order dated 18.12.2002 has been transferred from CGHS Meerut to Jimper Pandicherry. The applicant has challenged the order dated 18.12.2002 before this Tribunal by filing O.A. No.779/03 which was finally disposed of by order dated 17.07.2003. The Tribunal passed the following order:-

"We are completely aware that scope of interference in case of transfer is very limited as Hon'ble Supreme Court has repeatedly held that courts and Tribunals should not interfere in normal transfer as that would hamper working of the department. However, in the instant case; it is seen that applicant though was transferred as back as on 18.12.2002 but he has not been relieved till date and his representation is also still pending with the Secretary, therefore, we feel it would be in the interest of justice, if this O.A. is disposed off at the admission stage itself by giving a direction to the respondent no.1 to consider the applicant's representation and then pass an appropriate order thereon in accordance with law by a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order under intimation to the applicant. Till such time, his representation is decided. Respondents are directed not to give effect to the impugned order as applicant has till date not been relieved as stated by the applicant's counsel."

3. The order dated 17.07.2003 was prepared on 29.07.2003.
The Order
The applicant's counsel submits that / was received by the applicant on 02.08.2003 and it was served on the same day before the authorities at Meerut. However, meanwhile impugned order dated 31.07.2003 has been issued. By order of this Tribunal dated 17.07.2003 a clear cut direction has been issued to the respondents that they will not give effect to the order dated 18.12.2002 as applicant had not been relieved till date. In the same order a direction has also been given to the respondents to decide the representation of the applicant dated 10.01.2003 by a reasoned and speaking order within two months.

4. I have heard counsel for the parties and perused records.
5. The order of this Tribunal was passed on 17.07.2003 when the O.A.no.779/03 came up for hearing. The order was dictated in open court in presence of the counsel for the parties and, therefore, the respondents/^{cannot} take the plea that they were not aware that such an order had been passed. In the circumstances, I am of the view that the impugned order cannot be allowed to stand and is liable to be quashed. As directed by this Tribunal the respondents are required to decide the representation of the applicant first and only then they would be legally right to take any further action.
6. In the facts and circumstances, the O.A. is allowed. The impugned order dated 31.07.2003 is quashed. The respondents are directed to first decide the representation of the applicant dated 10.01.2003 as directed by this Tribunal by order dated 17.07.2003 passed in O.A. No.779/03 within the time frame allowed to them earlier before passing any order as per law.
7. There shall be no order as to costs.



Member-A

/Neelam/