

O. A. NO. 1061 of 2001

ORDER DATED 28th day of January, 2004.

The Applicant, in this case, was engaged for rendering medical services to the workers affected by Super Cyclone/flood in Orissa by order dated 05-11-1999, as a part time worker for the dispensary work at Gholpur in the district of Cuttack.

2. Learned Counsel for the Applicant has argued at some length that the prayer for making payment for the entire period during which the Applicant was engaged from April, 2000 to May, 2001 should be granted. Learned Additional Standing Counsel appearing for the Respondents, has brought to notice the instructions issued by the Welfare Administrator and Cess Commissioner, Bhubaneswar to the Senior Medical Officer, Gholapur dispensary making clear that engagement of part-time worker was only for one month on payment of Rs. 1000/- as wages and to be reviewed thereafter, in December, 1999. Again in a subsequent letter in April, 2001, it was pointed out that while permission has been given for engagement of a person for December, 1999 with clear instruction not to engage after that, the same person was being engaged and bills submitted for payment of wages. The Chief District Medical Officer was cautioned that this would attract

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disciplinary action and he was also advised to refrain from engaging any person without the consent of the Commissioner.

However, it would appear from the averments of the Applicant that although no payment of wages was made with effect from the month of April, 2000, according to the Applicant she continued working till May, 2001. The Learned Additional Standing Counsel for the Respondents states that disciplinary action has been initiated and charges framed against the Pharmacist for having continued to utilise the services of the Applicant for months together at his own accord contrary to the instructions in this matter. Learned Counsel for the Applicant submits that it is not the fault of the Applicant that she continued to be engaged till May, 2001 and hence not only payment of wages should be made for the period from April, 2000 to May, 2001 but also the Applicant should be regularised.


3. Admittedly, there was no instruction for engagement of the Applicant from the competent authority beyond the period of engagement of one month. However, the Applicant has been engaged and paid for her part time work till April, 2000. Learned Counsel for the Applicant

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states that the Applicant continued to work without wages beyond April, 2000 and that, the claim for wages should be considered since the Applicant, has, in fact, worked with the Pharmacist all these months. From the charges and statement of imputation framed against the Pharmacist, it is seen that the engagement of the Applicant by Pharmacist also forms part of the charge against him. In these circumstances, I am not inclined to intervene in this matter and expect that this issue would appropriately come to conclusion as a consequence of the disciplinary proceedings already initiated.

4. In the result, this Original Application is disposed of in the aforesaid terms. No costs.


(N.D. DAYAL)
MEMBER (ADMINISTRATIVE)

KNM/CM.