

3

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK**

O. A. No. 895 of 2013

Cuttack the 26th day of December, 2013

**CORAM**

**THE HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)**

Dr. Pratap Kumar Jena, aged about 38 years, S/o.Pitamber Jena of Village-Bhaunria, Post-Sukleswar, Dist. Cuttack, Ex-Junior Resident of CIP, Dist.Ranchi, Jharkhand.

....Applicant

(Advocates: Mr.B.B.Patnaik,S.K.Routra)

**VERSUS**

**Union of India Represented through -**

1. The Secretary, Ministry of Health and Family Welfare, Nirman Bhavan, New Delhi-110 011.
2. Director Central Institute of Psychiatry, At/Po.Kanke, Dist. Ranchi, Jharkhand.
3. Joint Secretary (Public Grievance), Ministry of Health & Family Welfare, Government of India, New Delhi.
4. Director General, Directorate General of Health Services, At-Nirman Bhavan, New Delhi.

....Respondents

(Advocate: Mr.S.B.Jena)

**O R D E R**

**(Oral)**

**A.K.PATNAIK, MEMBER (J):**

The prayer of the Applicant in this Original Application filed U/s.19 of the Administrative Tribunals Act, 1985 is as under:

"(i) ....to quash the order passed under Annexure-A/8 & A/10 dated 29.06.2013 & 26.07.2013 passed by

*Whee*

respondent No.2 as the same is illegal, arbitrary and is not sustainable in the eyes of law;

(ii) And to direct the Respondent No.2 to release the arrear salary of the applicant for the month of February, 2011 for Rs.44,000/- so also the arrear house rent for 10 months @ Rs.5000/- per month and further be pleased to direct the Respondent No.2 to return all Original document submitted by the applicant at the time of admission such as HSC, MBBS, Medical Registration Certificate, MBBS degree certificate within the stipulated period otherwise his career will be dark in absence of such certificates which is kept by the Respondent No.2 in a mala fide intention."

2. Copy of this OA has been served on Mr.S.B.Jena, Learned Additional CGSC for the Union of India who undertakes to file the Memo of appearance for the Respondents in the Registry in course of the day. Heard Mr.B.B.Patnaik, Learned Counsel for the Applicant and Mr.S.B.Jena, Learned Additional CGSC appearing for the Respondents and perused the records.

3. Mr.Patnaik's contention is that due to unholy/unhealthy situation the applicant while undergoing the training course, for his career sake, left the institution midway but the Respondents without causing proper enquiry to the incident, illegally and arbitrarily being vindictive directed the applicant to deposit Rs.90,383/- vide Memorandum dated 29.06.2013 and applicant submitted in writing before the Respondent No.1 on 03.07.2013 about the highhanded action of the administration ~~of the injustice~~ but the same did not yield any result till date and on the other hand the applicant has been threatened vide memorandum dated 26.7.2013 that if he does not

*Allo*

deposit the amount within the stipulated period legal action will be taken against him which is not sustainable in the eyes of law.

On the other hand, by drawing my attention to the provisions of the A.T. Act, 1985 and the representation dated 3.7.2013 of the applicant addressed to Respondent No.1, it was contended by Mr. Jena that since the applicant approached this Tribunal without availing of the opportunity, at the first instance, by way of making any representation against the letters dated 29.6.2013 and 26.7.2013 this OA is liable to be dismissed. Further by placing reliance on the letter dated 29.06.2013 it was contended by Mr. Jena that the applicant joined the institute as Junior Resident DPM course in the session 2010-2012. He has been found absenting himself from his course and residency since 01.03.2011. The session 2010-2012 of the DPM course in which he was pursuing, ended on 30<sup>th</sup> April, 2012. As per the terms and conditions of the agreement those who discontinue the course after one month from the date of admission and within the first academic year have to pay Rs.50, 000/- plus one month's salary. As the applicant discontinued his course from 01.03.2011 within the first academic year he was liable to pay the penalty as per the terms and conditions stipulated in the agreement signed by him. Hence there is no merit in this OA and the OA is liable to be dismissed.

4. On being asked, Mr. Patnaik craves leave of this Tribunal to make a representation to Respondent No.2 who is the competent authority to



adjudicate and decide the matter at the first instance within a period of two weeks hence. I also feel that allowing leave, as prayed for, will not prejudice the interest of any of the parties. Hence, without entering into the merit of the matter, this OA is disposed of at this admission stage by granting liberty to the Applicant to make representation, if so advised, within a period of two weeks, to the Respondent No.2. In case such a representation is made by the applicant within a period of two weeks, Respondent No.2 is directed to consider and dispose of the same and communicate the result thereof to the applicant, in a well-reasoned order, within another period of 60(sixty) days from the date of receipt of copy of this order. Till a decision is taken and communicated on the representation of the applicant, as directed above, there shall be no coercive action against the Applicant. There shall be no order as to costs.

5. As prayed for by Mr.Patnaik, Learned Counsel for the Applicant copy of this order be sent to Respondent No.2 by speed post for compliance at his cost for which he undertakes to furnish the postal requisite within three days hence.

  
(A.K.PATNAIK)  
Member (Judl.)