

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW BOMBAY BENCH~~

NEW BOMBAY BENCH

O.A. No. 51/88
~~TxAxxNo.~~

198

DATE OF DECISION 12.4.1988Ayudh Nirmani Mazdoor Sangh, Petitioner
through its General Secretary,
Nagpur.Mr.A.V.Mohta

Advocate for the Petitioner(s)

Versus

General Manager, Ordnance Factory, Respondent s
Nagpur and two others.Mr.S.R.Atre (for Mr.P.M.Pradhan) Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr.J.G.Rajadhyaksha, Member (A)

The Hon'ble Mr.M.B.Mujumdar, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(6)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

OA.NO. 51/88

Ayudh Nirmani Mazdoor Sangh, through
its General Secretary, Shri H.G.Kalpande,
C/o Quarter No. 7/46/1, Ambazari,
Defence Project,
Nagpur.

Applicant

V/S.

1. The General Manager,
Ordnance Factory,
Ambazari,
Nagpur.
2. Union of India
through
The Secretary,
Ministry of Defence,
New Delhi.
3. The Chairman,
Ordnance Factory Board,
10-A, Auckland Road,
Calcutta (W.B.)- 700 001.

Respondents

CORAM : Hon'ble Member (A) Shri J.G.Rajadhyaksha
Hon'ble Member (J) Shri M.B.Mujumdar

Appearances :

Mr.A.V.Mohta
Advocate
for the applicants

Mr.S.R.Atre
(for Mr.P.M.Pradhan)
Advocate
for the Respondents

ORAL JUDGMENT

Dated: 12.4.1988

(PER: M.B.Mujumdar, Member (J))

This application is filed by the Ayudh Nirman Mazdoor Sangh through its General Secretary under Section 19 of the Administrative Tribunals Act, 1985.

2. The application is filed on behalf of 11 Medical Assistants working in the hospital of the Ordnance Factory at Ambajhari, Nagpur. By our order dated 11.1.1988, the applicant was permitted under Rule 4 (V) (b) of the



Central Administrative Tribunal Procedure Rules, 1987, to file this application on behalf of the 11 Medical Assistants.

3. 11 persons on whose behalf this application is filed were appointed as Dressers/Medical Assistants from 1966 to 1983. The post of Dresser was re-designated as Medical Assistant since May, 1979. Previously, no surgical operations were performed in the hospital of the Ordnance Factory at Ambajhari. However, in 1986 a Surgeon with Master's degree in surgery was appointed and since then operations started to be performed in the hospital. The Medical Assistants on whose behalf this application is made were asked to do the duty of shaving the parts of the patients which were to be operated upon.

4. On 22.9.1986 the medical assistants informed the President of the applicants' union that the authorities were asking them to do shaving of the parts of the body of the patients which were to be operated upon. In pursuance to that letter, the Office Secretary of the applicants' Union wrote a letter dated 28.9.86 to the General Manager of the Ordnance Factory requesting him to enquire into the matter and not to ask the Medical Assistants to do shaving of the parts of the body of the persons. In that letter, the office secretary pointed out that the Medical Assistants were not supposed to do that work and that it should be got done from the barbers or operation room assistants or in the case of ladies from midwives. The General Manager of the Ordnance Factory, by letter dated 7.4.87, brought to the notice of the Secretary of the Union that according to the standing orders available in the hospital, the Medical Assistants were equivalent to Nursing Assistants in a civil hospital

and it was their duty to prepare the patients for operation including shaving of the parts of the body which were to be operated upon. According to the General Manager barbers and other employees were not expected to do that work.

5. As the Medical Assistants refused to do shaving work, the respondents started departmental proceedings against them. 4 enquiries are completed and some penalty is awarded to the Medical Assistants in the ~~enquiry~~ enquiry, and some enquiries are still pending. By our order dt.24.3.88 the proceedings which were already initiated or proposed to be initiated were stayed until further order. The main prayer of the applicants is for declaring that the shaving of parts of the patients is not the duty of the Medical Assistants/Dressers and for restraining the respondents from asking them to perform that duty. The other prayers are consequential in nature.

6. The respondents have filed their written statement. According to them, the duties of medical assistants in the hospital of the Ordnance Factory at Ambajhari are similar to those of Nursing Assistants in the Army Medical Hospitals. They have further stated that preparing patients for operation and shaving their parts of the body which are to be operated upon are the duties of Medical Assistants and nobody else. They have denied that the shaving parts of the body of the patients is the duty of the barbers and other employees in the hospital. Along with the written statement, the respondents have produced statements showing the duties of the Medical Assistants and barbers.

7. We have heard Mr.A.V.Mohta, learned advocate for the applicants and Mr.S.R.Atre for Mr.P.M.Pradhan, learned advocate for the respondents.

8. In our view shaving parts of the body of the patients which are to be operated upon will be the duty of the Medical Assistants and not of the barbers or any other employees in the hospital.

9. The statement showing the duties of Medical Assistants shows that they are equivalent to nursing orderlies in Army Medical corps. They are to be trained in elementary nursing and first-aid and are to be well-versed in the use of ward/dressing room equipment. They are required to be conversant with the terms like "Septic, Sterile", etc. and they are to take all precautions in dressing of wounds or handling dressing. According to one of the clauses in that statement Medical Assistants are to be responsible for cleanliness and tidiness of their ward and comfort of patients and they have to carry out nursing instructions as given from time to time. They are also required to help the doctors and nurses in execution of their duties and carry-out the instructions given by them.

10. In our opinion, if all these instructions are taken together, the Medical Assistant will not be entitled to **refuse** to shave the parts of the body of the patients which are to be operated upon as per the instructions from the doctor or nurse. Against this, the statement of duties of barbers shows that they are not expected to shave the parts of the body of the patients which are to be operated upon. Mr.Mohta, Advocate for the applicant relied on the following clause in that

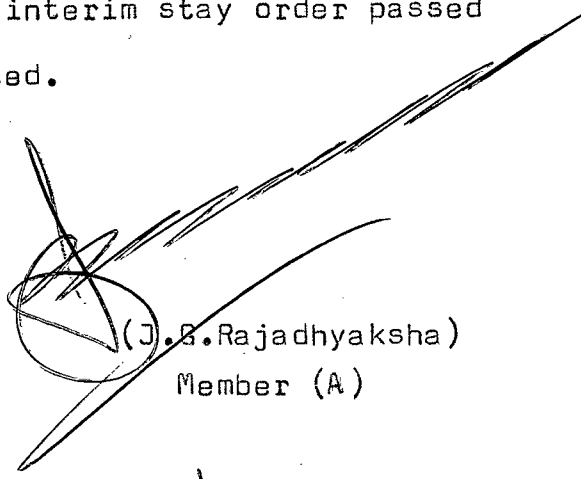
statement "He will carry out hair cutting and shaving of patients. He will take daily morning rounds of the Male wards and ensure that shaving of all patients including bed patients are done before doctor's morning round. Hair cutting of the patient will be done only in barber's shop." According to Mr. Mohta, shaving patients is the duty of barber. But the word shaving in this clause has to be considered along with the further portion of that clause. According to that portion, the barber is required to take round of the male wards and ensure that shaving of all patients including bed patients is done before doctor's morning round. In our opinion, this shaving refers to usual shaving of beard and moustache. The very fact that the barber is expected to shave before doctor's morning round shows that shaving of parts of the body of the patients for the purpose of preparing him for operation is not expected to be done by him.

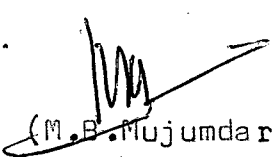
11. We have seen the duties which are expected to be done by nurses. We are of the view that shaving parts of the body of a male patient for preparing him for operation cannot be said to be their duty. There is a post by the designation 'operation room assistant' in the hospital of the Ordnance Factory. There is a post of nurse in-charge of operation room. Their duties are mentioned in the standing orders. Shaving does not fall in the duties of any of them. We may point out that the Medical Officer of the hospital had written a letter on 16.2.1988 to the Officer Commanding of the Military Hospital, Kamptee for getting information as to whether shaving parts of the body of the patients which are to be operated upon is the duty of the Medical Assistant. The Commanding Officer has replied that preparation of the patients including shaving of the parts of the body of the patients is done

by nursing assistant only. As already pointed out, according to the statement regarding duties of medical assistants, Medical Assistants are equivalent to nursing assistants in the hospitals of the Army Medical Corps. If the latter are doing the duties of shaving parts of the body of the patient while preparing him for operation, we do not understand why the applicants are refusing to carry out that work.

12. Even by considering the case from a broader aspect, Medical Assistants are required to be trained in elementary nursing and first aid. They are required to be conversant with the terms like septic, sterile, etc. If some injury is caused while preparing the patient for operation, they will be in a better position than the barbers to know as to what should be done about these injuries. We are, therefore, of the view that the respondents were right in holding that it is the duty of the Medical Assistant to shave any parts of the body of the patient while preparing him for operation and applicants are not justified in refusing to carry out that work.

13. We, therefore, dismiss the application with no orders as to costs. The interim stay order passed on 24.3.1988 is hereby vacated.


(J. B. Rajadhyaksha)
Member (A)


(M. B. Mujumdar)
Member (J)