

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW BOMBAY BENCH

Original Application No.426/86

VIDYADHAR KESHAV DATAR,  
Datar Sadan (Sunetra Apartment),  
Kharkar Ali,  
THANE - 400 601.

.. Applicant

V/s

1. Union of India  
through Secretary,  
Ministry of Communications,  
New Delhi.
2. Director General,  
Department of  
Telecommunications,  
Dak-Tar Bhavan,  
New Delhi - 1.
3. General Manager,  
Mahanagar Telephone Nigam Ltd.,  
Telephone Bhawan,  
Colaba, Bombay-5.
4. Dy.General Manager (F&A),  
Mahanagar Telephone Nigam Ltd.,  
Telephone Bhawan,  
Colaba, Bombay - 5.

.. Respondents

Coram: Hon'ble Vice-Chairman Shri B.C.Gadgil

Appearances:

1. Applicant in person.
2. Mr.M.I.Sethna, Advocate  
for the Respondents.

ORAL JUDGEMENT (Per Shri B.C.Gadgil, Hon'ble Vice-Chairman)  
Dated: 13.7.1987.

The applicant is original employee of the Posts & Telegraphs Department and on the constitution of an organisation known as Mahanagar Telephones Nigam Limited, he is on deputation with the said organisation. However, this deputation aspect is not much relevant for deciding the controversy in this application.

2. The main prayer of the applicant is that under the Central Services (Medical Attendance) Rules, 1944 he is

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entitled to have medical attendance at the hands of a Doctor working in any Government Hospital on the basis that such Doctors are Authorised Medical Attendants as contemplated with the above Rules. He has therefore prayed that necessary orders in that respect be issued and he should be given an option to have the medical attendance from the Doctor of a Government Hospital or from a doctor empanelled under the above mentioned rules.

3. The applicant has filed this application in person. He has also today submitted written arguments in support of his case. The application as well as the said written arguments are not as methodical as they are expected from an advocate. However, after hearing the applicant and also Mr.M.I.Sethna for the Respondents, I could see that the dispute in question is a short one and has to be resolved on the basis of the various provisions of the above mentioned rules. Hence it is not necessary to mention the various averments made by the applicant in his application or in his written argument. It would be sufficient to state briefly as to what is his case.

4. Before considering the dispute, I will briefly state the relevant rules. Rule 2(a) of the rules defines term "Authorised Medical Attendant". It is not necessary to reproduce the entire definition. What is relevant is that under sub-clause 'A' (iii) the General Manager is entitled to appoint any Medical Officer whether in Government Service or not as Authorised Medical Attendant. Sub-clause iv provides that the Chairman of the Central Government Employees Welfare Coordination Committee can also make such appointment. However, a Medical Officer in the employment of the State Government cannot be appointed except after consultation with

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the State Government. Clause (B) deals with the case where no Medical Officer have been so appointed under Clause (A). It says that when such appointment has not been so made certain Medical Officers attached to the Government Hospitals automatically become the Authorised Medical Attendants.

5. The applicant contends that he is entitled to have the Medical attendance from a Government Medical Officer if he has been so appointed by the <sup>State</sup> Government as Authorised Medical Attendant. As against this Mr. Sethna for the Respondents urged that the State Government could have no authority or power to appoint Authorised Medical Attendant under these Central Rules. His another contention is that the Government Doctors have been made Authorised Medical Attendants under Clause 'B' only if the concerned authority has not appointed any other Authorised Medical Attendants under Clause 'A'. There is much substance in the contention of Mr. Sethna. The frame of Rule.2 itself suggests that under Clause 'A' there would be an appointment by appropriate authority and Clause 'B' comes into picture only when such appointment has not been made.

6. In the present case it is not in dispute that the concerned authority of the Respondents has not appointed any private Medical Practitioners as A.M.A. under sub.Clause iii of Clause 'A'. It is true that under subclause iv the Chairman of the Welfare Coordination Committee is also entitled to make such an appointment. However, it is common ground that this rule has been subsequently modified to the effect that the said Coordination Committee can only prepare a panel and the concerned authority would make an appointment

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of some of the Doctors from that panel. It is not in dispute that on the basis of the said panel the Government has appointed certain Private Medical Practitioner as A.M.A. Once such an appointment has been made under Clause 'A' there is no question of coming into operation the provisions of Clause 'B' under which the Doctors from the Government Hospitals automatically become the Authorised Medical Attendant in the absence of an appointment under Clause 'A'. This appears to be the legal position that emerges from the provisions of rule 2(a). The applicant however, relied upon important decision NO.24 and the relevant part of it appears on page.32 of Swamy's Compilation on Medical Attendance Rules. It is stated therein that the preparation of panel by the Welfare Co-ordination Committee would not do and that the actual nomination from amongst that panel has to be made by the concerned authority. Thereafter, these following observations:

" Only the Doctors from the panel nominated from the Head of the Department as A.M.A. for their employees would be recognised as A.M.A., this will be in addition to A.M.A.who are Central or/and State/Union Territory Government Employees as envisaged under rule 2(a) of the Central Services (Medical Attendance) Rules."

It was contended by the applicant that the above mentioned underlined words would mean that in addition to the appointments made on the basis of the panel prepared by the Co-ordination Committee there could be other Medical Attendants who are Central and/or State Government Employees. Mr.Sethna has not disputed about this position. However, he contends

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*P. S. Sethna*