

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

(11)

O.A. NO: 740/91

199

T.A. NO: -----

DATE OF DECISION 29-9-1992

Dr.M.K.Mandal

Petitioner

Mr.G.S.Walia

Advocate for the Petitioners

Versus

Union of India and ors.

Respondent

Mr.J.G.Sawant

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr.Justice S.K.Dhaon, Vice-Chairman

The Hon'ble Mr. M.Y.Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

N

mbm*

MD

(S.K.DHAON)

(12)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.740/91

Dr.M.K.Mandal,
C/o.G.S.Walia,
Office No.16,
Maharashtra Bhavan,
Bora Masjid Street,
Behind Handloom House,
Fort, Bombay -400 001.

.. Applicant

vs.

1. Administration of Union Territory of Daman and Diu, P.O.Dona Paula, Goa.
2. Chief Secretary, Administrative of Daman, and Diu, Moti - Daman.
3. Union of India through the Secretary, Ministry of Home Affairs, Central Secretariate, North Block, New Delhi.
4. Dr.M.R.Prabhakar, Primary Health Centre, Diu.

.. Respondents

Coram: Hon'ble Shri Justice S.K.Dhaon,
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar,
Member(A)

Appearances:

1. Mr.G.S.Walia
Advocate for the
Applicant.
2. Mr.J.G.Sawant
Advocate for
Respondents No.1 to 3.

ORAL JUDGMENT: Date: 29-9-1992
(Per S.K.Dhaon, Vice-Chairman)

The order dt. 18th November,1991
passed by the Assistant Secretary under the
direction of the Administrator,Daman and Diu
transferring four officers,including the applicant,
is being impugned in the present application.
A reply has been filed on behalf of respondents
No.1 to 3 and also on behalf of respondent No.4.

Shri J.G.Sawant learned counsel who appears on behalf of respondents No. 1 to 3 has been heard in opposition of this application. Neither the respondent No.4 nor his counsel are present.

We are proceeding to dispose of this application finally. We have perused the replies filed.


2. The impugned order recites that the same is being passed in pursuance to order dt. 16th July,1991 of the CAT in O.A. 1602/91. It appears that in the aforesaid O.A. an interim order was passed on 16th July,1991 restraining the authorities concerned from reverting one Dr. M.R.Prabhakar from the post of Health Officer. It also appears that on 25th October,1991 the applicant concerned withdrew the O.A.1602/91. In spite of the withdrawal of the O.A., the impugned order was passed on 18th November,1991 to give effect to the interim order passed on 16th July,1991. The very basis of the order dt. 18th November,1991 was non-existent on that date as the O.A. stood withdrawn and therefore any interim ~~xxxxx~~ order passed in that O.A. stood automatically vacated. The impugned order, therefore, is not sustainable.

3. Mr.Sawant informs us that the applicant has been posted as Medical Officer, Primary Health Centre at Daman, in pursuance of the impugned order dt. 18th November,1991. Be that as may, validity would not be infused into the order of 18th November,1991 as the applicant was duty bound to obey the order of transfer.

4. The order dt. 18th November,1991 is quashed insofar as it relates to the applicant,

Dr.Mandal. We, however, make it clear that it will be open to the authority concerned to pass a fresh order in accordance with law, if it is so advised.

5. No order as to costs.


(M.Y.PRIOLKAR)
Member(A)


(S.K.DHAON)
Vice-Chairman

MD

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DA.NO.740/91

Dated: 25.6.93

Heard Shri M.A.Mahalle for the applicant and Shri J.G.Sawant for the respondents.

It is apparent that, the order dated 18.11.1991 was quashed. There was no direction to retransfer the applicant as Medical Officer Incharge of Asstt. Director of Malaria and in the absence of such order it cannot be said that there is a wilful disobedience on the part of the respondents. C.P. is disposed of.

(MS.USHA SAVARA)
M (A)

(M.S.DESHPANDE)
V.C.

order/Judgement despatched
to Applicant/Respondent
on 29/9/93

C.P. No. 77/93
For orders fixed
on 25/6/93

Pl Yeli
9/7/93

at 25/6/93
order/Judgement despatched
to Applicant/Respondent(s)
on 13/7/93

19/7