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BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

M.P. 690/95 in O.A. 534/95

Shri R.S. Ajwani

...

Applicant

v/s

Union of India & Ors.

...

Respondents

CORAM : Hon'ble Shri M.R. Kolhatkar, Member (A).

Tribunal's orders

Dated: 19th Oct. 1995.

(Per: Hon'ble Shri M.R. Kolhatkar, M(A)).

1. Heard Shri Karkera with Shri Khaudewale for the Applicant and Shri R.K. Shetty for the Respondents.

In pursuance of the Tribunal's order dated 29-5-1995, the Respondents have considered the representation of the Applicant dated 7th April 1995 appearing on page 31 to 33 of the O.A. In this representation, the following points are made :

- 1) that the Applicant is due for superannuation on 31st May 1997 i.e. within two years;
- ii) he has undergone bypass surgery for which post operative treatment, periodical check-up is required to be done at CGHS and Bombay Hospital;
- iii) his wife is suffering from epileptic fits and his presence at Bombay is required in connection with the daughters of marriageable age.

The reply dated 12-7-1995 purported to dispose of his representation has not at all referred to the plea taken by the Applicant that he is soon retiring and he intends to settle down in Bombay and he therefore wants to be retained in Bombay. The M.P. 690/95 doubts the authenticity of the statement regarding the clinical condition of the Applicant and suggests that the Tribunal may allow the

Respondents to refer the case to the Board of Doctors

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consisting of cardiologists and other experts so that the actions of the Respondents are not further challenged before the Tribunal. To this M.P., the Applicant has filed a reply on 9-10-1995 in which he has stated in para 5 that he is ready and willing to go before the Board of Doctors consisting of cardiologists etc. as prayed by the Respondents in the M.P. The Applicant, however, has linked up this matter with the refund of his medical claim of Rs. 47,084/-.

2. According to us, this link up is not proper. We, therefore, dispose of the M.P. alongwith the O.A. by directing the Respondents to refer the case to the Board as below.

The Applicant to file with Respondents all the medical papers in relation to his treatment both in CGHS as well as Bombay Hospital within 8 days and thereafter Respondents may constitute a Board of Doctors consisting of cardiologists and relevant experts and to refer the matter to the same Board within a month. After obtaining the report of the Medical Board, copy of the opinion of the Medical should be made available to the Applicant within 7 days and on receipt of the same the Applicant if he so desires would be at liberty to apply for constitution of an Appellate Medical Board within a fortnight. If that contingency arises and after taking into account the opinion of the Appellate Medical Board, the Respondents are free to take further action to transfer or not to transfer the Applicant but also keeping in view the first prayer of the Applicant that he is entitled to remain at Bombay as per the relevant guidelines especially as he is likely to retire within /4 two years. Final decision to be taken by the authorities

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after taking into account the opinion of the Medical Board/Appellate Medical Board and keeping in view the request for retention in Bombay on the basis of guidelines referred to above. The O.A. alongwith the M.P. is disposed of in terms of the above directions. If the Applicant is still transferred, the order of the transfer should not be implemented till 15 (fifteen) days when the Applicant would be at liberty to file a fresh O.A. in case he is so advised.

M.R. Kolhatkar

(M.R. Kolhatkar)
Member (A)

ssp.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
MUMBAI

CONTEMPT PETITION NO: 161/95 IN O.A. 534/95

Shri R.S.Ajwani
(By counsel Shri S.S.Karkera)

.. Petitioner

-versus-

1. Engineer in Chief,
Army Head Quarters,
New Delhi.
2. J.S.Soharu,
Lt.Col.Southern Command-I
Engineering Branch,
Pune-1.
3. B.B.Dhamija,
S.E.Commander Works Engg.
Office of the Commander Work
Engineer, Naval Works,
Dr.Homi Bhabha Road,
Mumbai -1
(By counsel Shri R.K.Shetty)

..Contemners

Coram: Hon'ble Shri B.S.Hegde, Member(J)

Hon'ble Shri M.R.Kolhatkar, Member(A)

Tribunal's order:
(Per M.R.Kolhatkar, Member(A))

Date: 26/4/96

In this C.P. the applicant has alleged that there is a contempt of court in relation to the judgment and order of this Tribunal in O.A. 534/95 dt. 19-10-1995. The immediate action required to be taken by the respondents was to constitute a Board of Doctors consisting of Cardiologists and relevant experts and to refer the matter to the same Board within a month. According to the petitioner the respondent No.3 issued a letter dt. 20-11-1995 addressed to the Medical Superintendent, J.J.Group of Hospitals for second medical opinion wherein he has disclosed the whole case of the applicant to the Medical Superintendent and also enclosed a copy of the judgment. According to the applicant this action of the respondents is going to the

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~~prejudice~~ the interest of the applicant while deciding the case of the applicant in rendering its medical opinion and to that extent respondent No.3 has not complied with the judgment of this Tribunal.

2. The respondents have denied this allegation. It is contended that no opinion was forwarded to the medical authorities while forwarding the letter dt. 20-11-1995 by respondent No.3. Only the facts were forwarded to the J.J.Hospital authorities along with judgment dt. 19-10-1995 in good faith in order to avoid further queries in the matter. Respondent No.3 is also not a medical practitioner to give opinion to the medical board, nor has he suppressed any material facts. Respondents on the other hand have alleged that applicant has committed contempt by refusing to appear before the medical board twice vide letter dt. 22-11-1995 and 7-12-95.

3. The present position of the case is that the matter came up before this Tribunal on 16-2-1996 and the Tribunal recorded that the applicant has decided to go for the second medical medical checkup as directed by the Tribunal to J.J.Hospital after fixing an appointment within a period of two weeks and the respondents were also directed to pass a speaking order in terms of the judgment of the Tribunal dt. 19-10-95.

4. On a perusal of the facts pleaded and the documents enclosed and the arguments advanced we are not satisfied that the ~~xxx~~ original respondents have committed any contempt of court. The C.P. is therefore discharged.

We do not express any opinion regarding speaking order passed by the respondents on 15-3-96. *MD 18/95 stands disposed of*

M.R. Kolhatkar
(M.R.KOLHATKAR)
Member(A)

B.S. Hegde
(B.S.HEGDE)
Member(J)