

# THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH, JAIPUR ORDER SHEET

(13)

APPLICATION NO.: \_\_\_\_\_

Applicant(s)

Respondent (s)

Advocate for Applicant (s)

Advocate for Respondent (s)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

06.12.2007

OA No. 161/2006

Mr. Dharmendra Jain, Counsel for applicant.

Mr. V.S. Gurjar, Counsel for respondents.

Mr. Dharmendra Jain, Advocate, is referring to the order sheet dated 31.10.2007 wherein he had submitted that he is no longer counsel in this case.

Let fresh notices be sent to the applicant. Applicant has sent a letter dated 04.12.2007, received in the Registry on 06.12.2007 requesting for listing this case in February, 2008.

Let the case be listed for orders on 22.03.2008. The date shall be informed to the applicant by the Registry through Registered AD.

*(J.P. SHUKLA)*  
MEMBER (A)

*(A.K. YOG)*  
MEMBER (J)

AHQ

24/3/08

None present for the applicant  
Mr. V.S. Gurjar, learned Counsel for  
the respondents is present.

Heard the learned Counsel for the  
respondents. perused the  
records. OA is dismissed in ~~any~~  
~~as instructions~~ vide separate  
order for the reasons recorded  
therein

*(N.D. Raghavany)*  
Vice Chairman

*Central  
Legal Officer  
Office*

*A.D.  
Perused  
S*

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR**

**Original Application No.161/2006**

**24<sup>th</sup> March 2008.**

**Hon'ble Mr. N.D. Raghavan, Vice Chairman.**

Dr. M.K. Shrivastava, s/o late Shri Pratap Narayan Shrivastava, aged about 64 years,, resident of 18 Anand Kuti, Kabir Marg, Bani Park, Jaipur, ( retired on 31.12.2001 from the post of Senior Regional Director, Regional Office for Health and Family Welfare, Jaipur)

: Applicant.

None present for the applicant.

**VERSUS**

1. Union of India through the Secretary to Government, Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi.
2. Director General of Health Services, Nirman Bhawan, new Delhi.
3. Pay and Accounts Officer, Pay and Accounts Office, Ministry of Health and Family Welfare, NCID, 22, Shom Nath Marg, Delhi 54

: Respondents

Rep. by Mr. V.S. Gurjar : Counsel for the respondents.

**ORDER**

**Per Mr. N.D. Raghavan, Vice Chairman.**

When the case has been taken up for hearing neither the applicant nor anybody on his behalf is present, while Mr. V.S. Gurjar, learned counsel for the respondents is present.

2. The grievance of the applicant as seen in this O.A are briefly these: The applicant seems to have retired on 31.12.2001 and filed O.A. No. 307/2003, praying for payment of ~~his~~ <sup>- Retiral ~~me.~~</sup> benefits, which was allowed on 19.12.2003. On



17.01.2004 the applicant filed fresh representation as per the directions of this Tribunal, which according to the applicant has not yet been disposed of till date of the institution of this O.A. Meanwhile, the applicant has filed Contempt Application No.3/2004. The said contempt petition was disposed of vide order dated 06.01.2005 stating that nothing survives in this contempt petition. However, liberty was given to the applicant that if the applicant still felt aggrieved, he could agitate the matter in accordance with law. On 09.05.2005, the applicant has filed an application for restoration of Contempt Petition, which was disposed of with observation that the applicant can reagitate the matter in accordance with law by filing a substantive O.A. Hence against such inaction on the part of the respondents, the present O.A has been presented on 21.04.2006.

3. Order sheet endorsements in this O.A have also been gone through, which reads as under: On 12.05.2006, Mr. Dharmendra Jain appeared on behalf of the applicant and notices were issued to the respondents returnable by six weeks and the respondents were directed to file reply and rejoinder if any, to be filed by the applicant within two weeks thereafter. The matter was directed to be listed before the Bench only after completion of pleadings. On 04.07.2007 none was present before the Deputy Registrar. On 28.08.2006, the Deputy Registrar recorded that since the applicant had written a letter stating that he is withdrawing the case from Mr. Manish Bhandari, Advocate and that since no reply was filed by the respondents, the case was adjourned to



12.10.2006. On 12.10.2006, none was present and four more weeks time was granted to the respondents to file reply and the matter was adjourned to 10.11.2006. On 10.11.2006 the Deputy Registrar recorded that reply was filed by the respondents but rejoinder was still awaited. Hence the matter was directed to be listed on 21.12.2006. On 21.12.2006, the learned counsel for the applicant prayed for two weeks time to file rejoinder and time as prayed for was granted to the applicant. On 11.01.2007 and 20.02.2007, the learned counsel for the applicant was granted further time to file rejoinder but in spite of granting opportunities, no rejoinder was filed. Hence on 29.03.2007, the Deputy Registrar has recorded that in spite of last opportunity having been granted, no rejoinder had been filed by the applicant and that therefore the matter was deemed to be ready for hearing and directed the matter to be placed before the Bench for admission/hearing on 03.05.2007. On 03.05.2007, the Division Bench directed the matter to be listed on 30.05.2007 and in the meantime applicant might file rejoinder, if any. On 30.05.2007, a Single Member Bench, *at ad*, the request of the applicant's counsel granted time to file rejoinder by 12.07.2007. The same was the fate on 12.07.2007 and the matter was adjourned. On 09.08.2007, at the request of the applicant's counsel applicant was granted two weeks more time to file rejoinder. On 06.09.2007, at the request of parties, the case was adjourned to 31.10.2007. On 31.10.2007, proxy counsel for the applicant submitted before the Division Bench that the applicant has taken *back ad* the papers from the counsel and Mr. *- the ad* Dharmendra Jain was no longer *the* counsel for the applicant. On

*led*

the basis of such submission, the Division Bench directed the Registry to issue fresh notice to the applicant to engage a counsel or to argue the case in person on the next date of hearing on 06.12.2007. On 06.12.2007, Mr. Dharmendra Jain, learned counsel for the applicant submitted before the Bench that though the cause list reflects that he is the counsel for the applicant, he is no longer <sup>- the lde</sup> counsel in this case. On the basis of the said submission, the Bench directed the Registry to issue fresh notice to the applicant and on receipt of the notice the applicant sent a letter that the case be listed during February 2008. However, the Division Bench directed that the case be listed for orders on 22.03.2008 and the applicant be informed of the date. Thereafter, the Registry issued Registered AD letter to the applicant on 07.01.2008 either to appear in person or through an advocate on 22.03.2008.

4. Thus the matter has come up before this Bench today for further proceedings. Again, neither the applicant nor anybody on his behalf is present before me. However, Mr. V.S. Gurjar, learned counsel for the respondents is present, drawing my attention to the reliefs prayed for in the O.A. and submitted that the applicant has prayed for a direction to the respondents to decide the representation dated 17.01.2004 submitted by the applicant as per the directions of this Tribunal dated 19.12.2003 passed in O.A. No. 307/2003. He further submitted that the respondents have already disposed of the said representation on 14.05.2004 (Annex. R/1- page 70 of the paper book). The learned counsel for the respondents submitted that since the



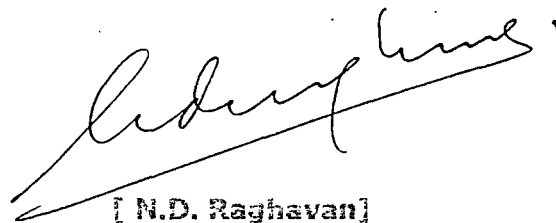
representation of the applicant having been decided, nothing remains in this O.A to be agitated by the applicant and, according to the respondents, if at all the applicant is yet aggrieved by the decision taken on 14.05.2004, the applicant is at liberty to challenge the same in accordance with law.

5. The submissions of the respondents counsel have been heard and the records on hand have been perused. As noted from the order sheets referred to above and the concerned counsel for the applicant had also submitted that he was no longer <sup>- the lib</sup> counsel for the applicant and that the applicant had also taken back the papers from him, and <sup>- the lib</sup> Registry has also issued registered AD letter to the applicant informing the date of the hearing of the case, yet the applicant is absent demonstrating that the applicant is no longer interested in pursuing <sup>- prosecuting ad</sup> and presenting his case, especially as per the directions of this Tribunal, when the respondents have already disposed of the representation of the applicant dated 17.01.2004 vide order dated 14.05.2004, i.e. prior to the date of filing of the present O.A.

6. Admittedly, the applicant has not only chosen to challenge the letter dated 14.05.2004 in the present O.A but also failed to indicate in the present O.A that the respondents have already disposed of his representation. Thus he has not come before this Tribunal with clean hands. Under these circumstances and since the O.A has not yet been admitted, nothing survives in this O.A and the O.A has become, <sup>- even if it deserves admission, rather lib</sup> lib.

infructuous. Further the applicant has not at all bothered either  
- to do.  
to appear before this Tribunal in person or ~~engaged~~ another  
counsel to argue his case having taken the case papers from the  
earlier counsel back. do.

7. Under these circumstances, I have no other alternative  
than to dismiss this O.A in any event stated above. No costs.



[ N.D. Raghavan ]  
Vice Chairman.

jsv