

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

C.P.NO.519 OF 2014
(In OA No.756/13)

New Delhi, this the 4th day of September, 2015

CORAM:

HON'BLE SHRI SUDHIR KUMAR, ADMINISTRATIVE MEMBMER
&
HON'BLE SHRI RAJ VIR SHARMA, JUDICIAL MEMBER

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1. Shri Girish Chand, Nursing Attendant,
S/o late Shri Mohan Lal,
R/o 41/488, P.K.Road, R.K.Ashram Marg,
New Delhi.
2. Shri Arun Kumar, Nursing Attendant,
S/o Amrit Singh,
R/o H.No.283, Vill & PO-Kair,
Nagafgarh,
New Delhi 110045
3. Shri Ravi Bhushan Sharma, Nursing Orderly,
s/o Shri G.D.Sharma,
R/o H.No.220, Vipen Garden Kakarola Mod,
Uttam Nagar,
New Delhi 110053
4. Shri Bhagawan Ballabh, Nursing Attendant,
S/o Shri Hansa Dutt Tiwari,
R/o K-102, Kali Bari Claise Square,
Type I, New Delhi Petitioners

(Advocate for petitioners: Mr.Krishan Kumar)

Vs.

1. Shri Lov Verma, Secretary, Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi.
2. Dr.Jagdish Prasad,

Director General of Health Services,
Ministry of Health & Family Welfare,
Nirman Bhawan,
New Delhi

3. Shri H.K.Kar,
Medical Superintendent,
Dr.Ram Manohar Lohia Hospital,
New Delhi

4. Dr.U.C.Garg,
H.O.D.(Radiology),
Dr.Ram Manohar Lohia Hospital,
New Delhi Opposite Parties

(By Advocate: Mr.Rajinder Nischal)

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ORDER

RAJ VIR SHARMA, MEMBER(J):

The applicant-petitioners had filed OA No.756 of 2013, praying for quashing the letter/order dated 18.9.2012 issued by the Director General of Health Services (respondent no.2), and also for a direction to the respondents to appoint them as Dark Room Assistants, by way of promotion, as per the minutes of the DPC, dated 17.9.2012.

2. The Tribunal allowed the said O.A.No.756 of 2013, vide order dated 22.5.2014, the operative part of which is reproduced below:

“10. In view of the above, impugned communication dated 18.09.2012 issued by the respondents cannot be legally sustained and is

accordingly quashed and set aside. We direct that the respondents to take vigilance status of the applicant as on date. This is because of the lapse of time between the date of recommendation of the DPC on 17.09.2012 and at present. If there is nothing adverse against the applicant the respondents shall give effect to the recommendations of the DPC within 3 months from the date of receipt of copy of this order. Consequential benefits relief arising out of the promotion of the applicants shall be regulated by the Respondents in consonance with the rules and instructions within the aforesaid period.”

3. The respondent-opposite parties filed RA No.174 of 2014 on 12.9.2014, seeking review of the order, dated 22.5.2014, *ibid.*

4. Alleging non-compliance of the above order dated 22.5.2014 passed by the Tribunal in OA No.756 of 2013, the applicant-petitioners filed the present Contempt Petition on 19.9.2014.

5. The Tribunal, by its order dated 24.3.2015, dismissed R.A No.174 of 2014 filed by the respondent-opposite parties.

6. In response to the notices received from the Tribunal, and in compliance with the Tribunal's order dated 1.5.2015, the opposite parties filed an affidavit on 19.8.2015, along with copy of an office order, dated 16.6.2015, issued by the Deputy Director, Dr.Ram Manohar Lohia Hospital, New Delhi, whereby the petitioners were appointed, by way of

promotion, to the post of Dark Room Assistant from the date of assumption of the charge of the said post. In the said affidavit, the respondents also tendered unconditional apology for the delay in implementing the Tribunal's order, dated 22.5.2014, *ibid*.

7. We have heard Mr.Krishan Kumar, learned counsel appearing for the petitioners, and Mr.Rajinder Nischal, learned counsel appearing for the opposite parties.

8. It is trite law that contempt jurisdiction is to be exercised sparingly and in very deserving cases only and not casually. Such a power is not intended to be exercised as a matter of course.

9. In the instant case, the opposite parties have already issued order, dated 16.6.2015, *ibid*, promoting the petitioners to the post of Dark Room Assistant, on the basis of the minutes of the DPC. Thus, we find that the Tribunal's order, dated 22.5.2014, *ibid*, has been complied with by the opposite parties. On promotion, an employee discharges duties and responsibilities attached to a higher post only from the date of his assuming charge of the said post. It is not the case of the petitioners that the DPC had recommended their promotion with retrospective effect. Therefore, we do not find any substance in the contention of Mr.Krishna Kumar, learned

counsel appearing for the petitioners, that the opposite parties have not fully complied with the Tribunal's order, dated 22.5.2014, *ibid*, and the opposite parties are liable to be proceeded against under the Contempt of Courts Act, 1971.

10. Upon considering the facts and circumstances of the case, particularly the fact that the opposite parties have tendered unconditional apology for the delay in implementing the Tribunal's order, dated 22.5.2014, passed in OA No.756 of 2013, we do not find that a *prima facie* case of contempt of this Tribunal has been made out against the opposite parties.

11. Accordingly, the Contempt Petition is dismissed, and the notices issued against the opposite parties are discharged.

(RAJ VIR SHARMA)
JUDICIAL MEMBER

(SUDHIR KUMAR)
ADMINISTRATIVE MEMBER