

Central Administrative Tribunal
Principal Bench: New Delhi

CP No. 572/2014
MA No.4008/2015
in
TA No.451/2009

Reserved on: 17.12.2015
Pronounced on: 21.12.2015

Hon'ble Dr. B.K. Sinha, Member (A)
Hon'ble Mr. Raj Vir Sharma, Member (J)

1. Dr. Rajni Dhalla w/o Dr. Deepak Dhalla
Dental Surgeon, Balak Ram Hospital,
Timarpur, Delhi – 110 054.
R/o 358, Delhi Gate,
Daryaganj, Delhi – 110 002.
2. Dr. Anil Dahiya s/o Sh. Rajinder Singh,
Dental Surgeon, P.H.C. Alipur, Delhi – 40.
R/o H.No.185, Village Judkhora,
Delhi- 39.
3. Dr. Divya Mahajan w/o Dr. Atul Mahajan,
Dental Surgeon,
Lajpat Nagar Colony Hospital, New Delhi.
R/o 2-D, Pocket-3,
Mayur Vihar Phase-I, Delhi.
4. Dr. Benu Kalucha w/o Dr. Ajay Logani,
Bhim Nagar, Dispensary, New Delhi
R/o P-13, Green Park Extension,
New Delhi - 110 016.
5. Dr. Shalini Gupta w/o Sh. Sangeet Gupta,
Dental Surgeon,
Tilak Nagar Colony Hospital, Delhi
R/o A-38, Shankar Garden,
Vikas Puri Crossing, New Delhi – 110 018.
6. Dr. Kamud Garg d/o Sh. R.D. Aggarwal,
Dental Surgeon,
MCD Hospital, Kalkaji, New Delhi
R/o 271, Sector-15, Faridabad.Applicants

(By Advocate: Sh. P.N. Jha & Ms. Pramanshi for Sh. A.K. Upadhyay)

Versus

1. Mr. Amit Yadav, IAS
 The Commissioner
 East Delhi Municipal Corporation
 Erstwhile Municipal Corporation of Delhi
 415, Udyog Bhawan, Patparganj,
 Delhi.

2. Mr. P.K. Gupta, IAS,
 The Commissioner,
 North Municipal Corporation of Delhi,
 Erstwhile Municipal Corporation of Delhi
 Dr. SPM Civic Centre, Municipal Headquarter,
 J.L. Nehru Marg,
 New Delhi – 110 002.

3. Mr. P.K. Goel, IAS
 The Commissioner,
 South Delhi Municipal Corporation of Delhi,
 Civic Centre, 4th Floor, Minto Road,
 Delhi

deleted vide order
 dated 03.12.2015.

...Respondents

(By Advocates: Sh. R.N. Singh and Sh. R.K. Jain)

O R D E R

By Dr. B.K. Sinha, Member (A):

The instant Contempt Petition has been filed by the applicants alleging non-implementation of Tribunal's order dated 28.10.2009 passed in TA No.451/2009, and seeking initiation of contempt proceedings against the respondents/contemnors for the same.

2. The history of the case, in short, is that the applicants are Dental Surgeons employed on contract basis through a process of walk-in-interview on a consolidated monthly salary of Rs.10,000/- . The contract stipulated certain other benefits but excluded the right of regularization. The applicants have continued on these posts since 2000 through periodical extensions at times accompanies by enhancement of consolidated amount. The applicants in the TA

No.451/2009 sought parity of pay and emoluments admissible to regular dental surgeons. The Tribunal vide order dated 28.10.2009 declined the plea of grant of regular pay scales while directing the respondents to extend the same pay structure and emoluments to the applicants as disbursed to their counterparts in the Govt. of NCT of Delhi w.e.f. 01.10.2007 with arrears. For the sake of greater clarity, the relevant part of the Tribunal's order is extracted as under:-

"16. Resultantly, for the foregoing reasons, this TA is disposed of with a direction to the respondents to extend to the applicants the same pay structure and emoluments as disbursed to their counterparts contract Doctors in Govt. of NCT of Delhi w.e.f. 1.10.2007 with arrears etc. within a period of three months from the date of receipt of a copy of this order."

3. Aggrieved, the respondent-MCD approached the Hon'ble High Court of Delhi by way of a Writ Petition bearing WP(C) No. 3900/2010 and the Hon'ble High Court, by and large concurred with the order of the Tribunal dated 28.10.2009 in TA No.451/2009 and declined to interfere with the same. For the sake of clarity, the relevant part of the order of the Hon'ble High Court is extracted hereunder:-

"4. This Court has considered the submissions. It is evident from the resolution that it was alive to the fact that there was a pay disparity between its doctors and those in the GNCTD. The applicant respondents are dental surgeons and have sought pay parity with the doctors in GNCTD. The order of the CAT has, in our opinion, balanced the entirety of circumstances. While denying the pay scale admissible to regular doctors on the basis of the claim for parity with such regular doctors, the CAT has directed parity with respect to emoluments of contractual doctors in the GNCTD. We do not see any infirmity or unreasonableness in the order; this Court also notices that only six applicants had approached the CAT for relief. In these circumstances, the impugned order does not call for interference. The writ petition is accordingly dismissed."

4. Now, the applicants seek initiation of contempt proceedings against the respondents/contemnors for not implementing the Tribunal's order even after dismissal of the WP(C) No.3900/2010 preferred by the MCD.

5. The applicants have also filed MA No.4008/2015 stating that though they have been working regularly and discharging their duties from July, 2015, their contract renewal has been withheld without any reason. The applicants have, therefore, sought a direction to be issued to the respondents to grant extension and revise their contract.

6. The respondents have filed a counter affidavit stating therein that no wilful violation with the Tribunal's order dated 28.10.2009 has been committed by them. Rather, they have made every effort to comply with the Tribunal's orders to extend to the applicants the same pay structure and emoluments as disbursed to their counterparts contract doctors in Govt. of NCT of Delhi w.e.f. 01.10.2007 and made enquiries from the Government of NCT of Delhi in this regard. It is submitted that the Govt. of NCT of Delhi vide their communication dated 16.06.2015 informed that the GNCTD has not engaged any CAS Dental Doctors on contract basis and, as such, the details of pay & allowances being paid to contractual doctors since 01.10.2007 cannot be provided.

7. The respondents, in view of the above reply of the GNCTD, have submitted that since no CAS Dental Doctor has been engaged by the

GNCTD on contract basis, question of payment of same pay structure does not arise at all, and, therefore, non-grant of the same to the applicants does not amount to wilful violation of the Tribunal's order dated 28.10.2009 in TA No.451/2009.

8. Insofar as the prayer of four out of six applicants pertaining to extension of contract as made in MA No.4008/2015 is concerned, we find that the respondents have already extended their contract from 02.07.2015 to 01.01.2016 vide order dated 02.12.2015 (Annexure R-1). Hence, the MA No.4008/2015 has become infructuous.

9. We have considered the issue on the basis of the pleadings of rival parties and are of the opinion that the direction of this Tribunal, as it has been extracted above, was to make payment to the applicants at par with the CA dental Surgeons in contractual employment of the Govt. of NCT of Delhi. However, it appears from perusal of the enclosures that several correspondence have been made. For the sake of clarity, the last of the correspondence dated 26.06.2015 is being extracted hereunder:-

"Subject: Information regarding payment of remuneration to the contractual Medical Officers (Dental) since 01/10/2007 to till date.

Sir,

With reference to your letter dated 16.06.2015 on the subject cited above. In this connection, I am to inform you that GNCTD has not engaged any CAS Dental doctor on contract basis. However, 19 ad hoc CAS dental doctors are working on regular pay scale of Rs.15600-39100 + GP 5400. However, the details of pay & allowances being paid to contractual doctors since 01.10.2007 cannot be provided as no contractual Dental doctors is working in the Department."

10. In totality of facts and circumstances of the case and in view of the reply of the Govt. of NCT of Delhi vide their communication dated 16.06.2015 to the effect that the GNCTD has not engaged any CAS Dental Doctors on contract basis and, as such, the details of pay & allowances being paid to contractual doctors since 01.10.2007 cannot be provided, we are of the opinion that the respondents have not committed any wilful violation of the Tribunal's order dated 28.10.2009. Hence, the contempt petition is dismissed. Notices issued are discharged.

(Raj Vir Sharma)
Member (J)

(Dr.B.K. Sinha)
Member (A)

/Ahuja/