

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.401/2017
M.A.No.390/2017

Order reserved on 8th May 2018

Order pronounced on 10th May 2018

Hon'ble Mr. K.N. Shrivastava, Member (A)

1. All India Jawahar Navodaya Vidyalaya
Staff Nurse Association (Regd.) through
General Secretary, Mrs. Neelam, aged 46 years
w/o Sh. Naseeb Sambyal
Village Quazi Pur, Post Office Ujwa
New Delhi – 110 73

r/o JNV Campus, Nud, Samba (J&K)

2. Smt. Raj Bala Yadav, aged 55 years
w/o Sh. Bhagwan Yadav
working as Staff Nurse in Jawahar Navodaya Vidyalaya
Jaffarpur Kalan, New Delhi – 110 073

r/o JNV Campus, Jaffarpur Kalan
New Delhi – 110 073

..Applicants

(Mr. Yogesh Sharma, Advocate)

Versus

1. Union of India through the Secretary
Ministry of Human Resources Development
Department of School Education & Literacy
Shastri Bhawan, New Delhi
2. The Commissioner
Navodaya Vidyalaya Samiti
B-15, Sector 62, Institutional Area
Noida-201307 (UP)
3. The Principal
Jawahar Navodaya Vidyalaya
Jaffarpur Kalan, New Delhi – 110 073

..Respondents

(Mr. S Rajappa, Advocate)

O R D E R

M.A. No.390/2017

M.A. seeking joining together in a single petition is allowed.

O.A. No.401/2017

The applicant No.1 is an Association of All India Jawahar Navodaya Vidyalaya Staff Nurses, whereas applicant No.2 is a member of the Association. The duties and responsibilities of non-teaching posts, including the post of Staff Nurse, have been spelt out by the Navodaya Vidyalaya Samiti (NVS) – respondent No.2 vide Annexure A-5 letter dated 06.05.1991. This letter stipulates the following duties and responsibilities for the Staff Nurses:-

“Nurse

- (1) Nurse shall be incharge of first aid and sick room of the Vidyalaya and shall look after its maintenance.
- (2) He/she will assist the Medical Officer during his/her visit to the Vidyalaya and carry out instructions given by him/her with regard to the treatment of the patients, if any.
- (3) He/she will maintain a record of all the children who report sick and the treatment given to them, if any.
- (4) In the event of a child requiring specialised medical treatment, the Nurse shall immediately inform the Principal.
- (5) Nurse shall keep a record of medicine purchased and administered to the children/employees of the Vidyalaya. For this purpose, a register containing the details of medicines purchased and issued shall be maintained by him/her which should be counter-signed by the Principal at least once in a fortnight.
- (6) Nurse shall also visit the Vidyalaya Mess daily to guide Catering Assistant to maintain proper hygienic conditions in and around the dining hall and dormitories and to give suitable dietary instructions in case of sick students.
- (7) He/she shall be the ex-officio member of the Mess Committee of the Vidyalaya.

- (8) To take care of all cleanliness in the vidyalaya premises
- (9) He/she shall carry out any other duty assigned by the Principal.
- (10) He/she shall maintain a regular clinic with necessary first aid.”

2. The grievance of the applicants is that the Staff Nurses do not get any weekly off, nor is there any prescribed duty roster of 8 hours for them. Their further grievance is that the Staff Nurses are made to work even on National /Gazetted Holidays and they do not get any compensatory off in lieu of that. Accordingly, they have approached this Tribunal in the instant O.A., praying for the following reliefs:-

“(i) That the Hon’ble Tribunal may graciously be pleased to pass an order declaring to the effect that the whole action of the respondents not granting the weekly off to the staff nurse working in Schools of NVS is illegal, arbitrary and against the statutory provisions and consequently, pass an order directing the respondents to grant one weekly off to all the Staff Nurse i.e. the members of applicant No.1 immediately.

(ii) That the Hon’ble Tribunal may graciously be pleased to pass an order of quashing the remarks dated 23.07.2016 given on the representation dated 23.07.2016 of applicant No.2 and consequently pass an order directing the respondents to grant one weekly off to the applicants.

(iii) That the Hon’ble Tribunal may graciously be pleased to pass an order directing the respondents to grant the compensatory off in lieu of working on National/Gazetted Holidays to the staff nurse working in NVS.

(iv) That the Hon’ble Tribunal may graciously be pleased to pass an order directing the respondents to prepare a duty roster of eight hours of the staff nurse working in NVS by deputing other staff nurse in every school.”

3. During the course of hearing, Mr. Yogesh Sharma, learned counsel for applicants drew my attention to the averments made in paragraph 4.5 of the O.A. It is stated therein that as per Section 4 of the Weekly Holidays

Act, 1942, every employee is entitled for one day's weekly off. Similar provision also exists in Section 23 of the Minimum Wages (Central) Rules, 1950. The Department of Personnel & Training (DoPT) O.M. dated 19.07.2016 (Annexure A-8) also provides for weekly off. He further stated that the teaching staff of NVS are getting the benefit of weekly off as well as they have duty roster of fixed hours.

4. Mr. Yogesh Sharma, learned counsel for applicant thus argued that the NVS is violating the statutory provisions as well as discriminating the Nurses in the matter of weekly off and duty roster.

5. *Per contra*, Mr. S Rajappa, learned counsel for respondents submitted that the NVS, vide its letter dated 16/18.01.2018, addressed to its all Regional Deputy Commissioners, has spelt out the duties and responsibilities of Staff Nurses. Mr. Rajappa particularly drew my attention to the following portions of the said letter:-

“Staff Nurse also may be allowed like other essential staff to attend their personal works also on Sundays/holidays.

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Leave to the students should be granted on medical ground only with the recommendation of staff nurse. If staff nurse is on leave/on duty, the same may be decided by the Principal.”

He thus argued that it is not correct to say that the Staff Nurses are not getting weekly offs. He also stated that like other staff of NVS, the Staff Nurses also enjoy 90 days of vacation in a year, in addition to other leave entitlements.

6. I have considered the arguments of learned counsel for the parties and have also perused the pleadings.

7. As averred by the applicants in paragraph 4.5 of the O.A., all Central Government employees are statutorily required to get a day's weekly off. The letter dated 16/18.01.2018 of NVS to all its Regional Deputy Commissioners does not mention, in clear terms, that the Staff Nurses are granted a day's weekly off. This letter only suggests that on Sundays/holidays, the Staff Nurses will be allowed to attend to their personal works, but does not categorically iterate that the Staff Nurses would be granted a day's weekly off.

8. I do understand that the nature of work of Staff Nurse is not of continuous type, rather it is of intermittent type. Hence, staggered working hours for the Staff Nurses could be prescribed. Normally, in a NVS School, which is a residential School, there is provision for more than one Staff Nurse. As such, the respondents could declare different days as weekly off for individual Staff Nurses. They have to do so as to meet the statutory requirement.

9. As regards the duties roster prescribing fixed working days, as I have observed in pre-paragraph, given the nature of work of a Staff Nurse, such fixed hours duty roster cannot be prescribed for a Staff Nurse. The staggered working hours for the Staff Nurses would meet the requirement considering the fact that the Staff Nurses are provided residential accommodation by the NVS in the same School.

10. In the conspectus of discussions, I dispose of this O.A. with the following directions:

(a) The respondents shall provide a day's weekly off to the Staff Nurses. The weekly off day need not be the same for all the Staff Nurses.

(b) The respondents may consider introduction of staggered working hours for the Staff Nurses with a provision that they could be asked to attend to any emergency situation even outside the staggered working hours. While doing so, it may be ensured that their total duty hours are almost equal to that of the other staff of the NVS Schools.

(c) The respondents shall issue a fresh circular incorporating the directions contained at (a) & (b) supra, within a period of three months from the date of receipt of a copy of this order.

There shall be no order as to costs.

**(K.N. Shrivastava)
Member (A)**

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