

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

O.A. No.497 of 2019

This the 11th day of February 2019

Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)

1. Sri Narinder Singh Ahuja,
S/o S. Rajinder Singh Ahuja,
Aged about 42 years,
Working as :
Secretariat Assistant
Under Central T.B Division
Directorate General of Health Services,
Room No.523, C Wing, Nirman Bhavan,
New Delhi-110001.
2. Shri Upendra Singh,
S/o Harphool Singh,
Aged about 37 years
Working as :
Technical Officer (Surveillance)
Under Central T.B Division
Directorate General of Health Services,
Room No.523, C Wing, Nirman Bhavan,
New Delhi-110001.

....Applicants

(By Advocate : Shri Shashank Mishra)

VERSUS

1. The Union of India,
Through the Secretary,
Ministry of Health & Family Welfare,
1st Floor, A Wing, Nirman Bhavan,
New Delhi-110 001.
2. The Secretary,
Department of Personnel & Training,
North Block, New Delhi-110 001.
3. The Director General of Health Services,
4th Floor, A-Wing, Nirman Bhavan,
New Delhi-110 001.
4. The Deputy Director General (T.B)
522, C-Wing, Nirman Bhawan,
New Delhi-110001.

.....Respondents

(By Advocate : Shri Ramjan Khan)

O R D E R (Oral)

Ms. Nita Chowdhury, Member (A):

Heard learned counsel for the parties at the admission stage itself.

2. By filing this OA, the applicants are seeking the following reliefs:-

- “(i) Pass appropriate orders setting aside and quashing Office memorandum dated 01.02.2019 and any other consequent orders/actions subsequent thereto;
- (ii) Direct the Respondents to take appropriate and expeditious steps to give timely extension to the applicants along with approved revised remuneration as per NSP from time to time the RNTCP;
- (iii) Pass any other orders as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the present case.”

3. The applicants in this OA are aggrieved by the Office Memorandum dated 01.02.2019, the contents of which read as under:-

“OFFICE MEMORANUM

Subject : Option for continuation of existing contract – Reg

National Strategic Plan (NSP) for TB elimination (2017-2025) has been approved up to March, 2020. The remuneration of each category of staff has been specified in NSP. Upward revision of remuneration as per NSP has been proposed.

On consideration, Internal Finance Division (IFD) has opined that upward revision of remuneration may be implemented with prospective effect and for this propose, the positions may be re-advertised. Further, it

has been suggested that all existing staff may be given the option to either continue under the existing contract or participate in the new selection process with revised ToRs.

In the circumstances, all Consultants (including Technical/Sr./Jr.) and supporting staff like Data Entry Operators/Secretarial Assistants, who are working in CTD on contractual basis are advised to give their option in the following format so that further necessary action can be taken accordingly.

Name	Designation	Period of the existing contract		Whether opting to continue under the existing contract (Yes/No)	If No, Whether opting to participate in the new selection process by re-advertising the existing post (Yes/No)
		From	To		

The option may be exercised by 11th February, 2019 before 06.00 PM and submitted to the undersigned in a sealed envelope.

This issues with the approval of competent authority.”

4. During the course of hearing, on query, learned counsel for the applicants submitted that although they have not submitted their representations against the said Office Memorandum but since the said Office Memorandum is clearly in violation of the decision of the Hon’ble Delhi High Court in Writ Petition (C) No.1741/2014, which was upheld by the Hon’ble Supreme Court, therefore, the applicants have approached this Tribunal by filing this OA.

5. Counsel for the respondents, who appeared on advance notice, submitted that the applicants are contractual employees and vide aforesaid Office Memorandum, only options were invited from such employees and as such there is nothing wrong in it. He further submitted that applicants have not exhausted the remedy available to them before approached this Tribunal, as the applicants himself stated in the OA that they have not availed any other remedy.

6. After hearing learned counsel for the parties at the admission stage itself, this Tribunal observes that it is admitted fact that applicants have approached this Tribunal without exhausting the remedy available to them against the said Office Memorandum, therefore, the present OA is premature, as in terms of provisions of Section 20 of the Administrative Tribunals Act, 1985, it is clearly provided that application not to be admitted unless other remedies were exhausted before approaching this Tribunal. The said Section provides that :

“20. Applications not to be admitted unless other remedies exhausted –

(1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2) For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances, -

(a) if a final order has been made by the Government or other authority or officer or other person competent to pass such order under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievance; or

(b) where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired.”

7. In view of the above facts and circumstances of this case, the present OA is dismissed as premature at the admission stage itself, as the applicants have not exhausted other remedies available to them for redressal of their grievances as provided under Section 20 of the Administrative Tribunals Act, 1985. The applicants ought to have made representation against the said Office Memorandum and thereafter, if they are aggrieved by the decision on their representation, they are at liberty to approach this Tribunal, if so advised, in accordance with rules and law on the subject. There shall be no order as to costs.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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