

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-1247/2017

New Delhi this the 4th day of February, 2019.

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Dr. Divpreet Sahani, 42 years
W/o Sh. Navinder Singh Gill,
R/o 17/7, Second Floor,
West Patel Nagar,
Delhi-8.
2. Dr. Ashu Chakravarty, 46 years
W/o Mr. D. Vashishtha,
R/o J-251, Saket, New Delhi.
3. Dr. Abhilasha Kewal Krishan, 43 years
W/o Dr. Anil Arora,
R/o B-3B/91-C, Janakpuri,
Delhi.
4. Dr. Richa Chandra, 44 years
W/o Dr. Sanjay Gupta,
R/o A-1/1503, Antriksh Nature Apartment,
Sector-52, Noida.
5. Dr. Anjali Gupta, 46 years
W/o Sh. Rajeev Gupta,
R/o V-12/19, DLF-3,
Gurugram.
6. Dr. Monica Kelkar, 41 years
W/o Sh. Manoj Kumar,
R/o B-6/68, IIIrd Floor,
Safdarjung Enclave, Delhi-29.

7. Dr. Neeraj Aggarwal, 43 years
S/o Dr. S.B. Aggarwal,
R/o 1403, Aggarsen Awas, 66,
I.P. Extension, Patparganj,
Delhi-92.
8. Dr. Monisha Batra, 42 years
W/o Sh. Vivek Soin,
R/o R-704, New Rajinder Nagar,
New Delhi-60.
9. Dr. Ravinder Kumar, 41 years
S/o Sh. O.P. Rohilla,
R/o H.No. 48-P, Sector-40,
Near Reyan International School,
Gurugram.
10. Dr. Kunwar Sanjay Kumar, 46 years
S/o Sh. Lehri Lal,
R/o E-1/5, Sector-16, Rohini,
New Delhi-07.
11. Dr. Urvashi Sinha, 43 years
W/o Sh. Vikas Saxena,
R/o E-2267, Ansal Palam Vihar,
Gurugram.
12. Dr. Sangeeta Saikia, 45 years
W/o Sh. K. Dass,
R/o B-1/1513,
Vasant Kunj, New Delhi.
13. Dr. Kavita Dhalla, 44 years
W/o Dr. Naveen Dhalla,
R/o Plot No.24, GF, Shakti Khand-II,
Indra Puram,
Ghaziabad, UP.
14. Dr. Shalini Bansal, 42 years

Sh. R.K. Bansal,
R/o 15, Vivekanand Puri,
Delhi.

15. Dr. Anil Mittal, 42 years
Sh. O.P. Mittal,
R/o House No. 73, Suvidha Kunj,
Block H-4/5, Pitampura,
Delhi-34.
16. Dr. Renuka Walia, 39 years
W/o Dr. Vikrant Walia,
R/o 33/2, Ground Floor,
Punjabi Bagh Extension,
Delhi-26.
17. Dr. Bhawna Gupta, 41 years
W/o Dr. Deepak Gupta,
R/o B-92, Preet Vihar,
Delhi.
18. Dr. Anjula Yadav, 45 years
W/o Sh. Suresh Chandra,
R/o L-223, Delta-II, Coral Estate,
Greater Noida, UP. Applicants

(through Sh. Rajeev Sharma, Advocate)

Versus

1. Government of NCT of Delhi,
Through its Chief Secretary,
5, Sham Nath Marg,
Delhi-110 054.
2. The Principal Secretary,
Health and Family Welfare Department,
Government of NCT of Delhi,
5, Sham Nath Marg,

Delhi-110 054.

3. The Director of Health Services,
Government of NCT of Delhi,
E-Block, Saraswati Bhawan,
Connaught Place,
New Delhi-110 001.
4. The Union Public Services Commission
Through Secretary, Dholpur House,
Shahjahan Road, New Delhi. Respondents
(through Sh. Amit Anand, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicants were appointed as Dental Surgeons on ad hoc basis in the year 1998. They filed OA No. 399/1999 before this Tribunal claiming the relief that their appointment be treated as the one, on regular basis. The OA was dismissed and they filed Writ Petition (C) Nos. 6509/2002, 6512/2002, and 6521/2002 before Hon'ble Delhi High Court. The High Court taking note of the fact that the Delhi Administration framed the Delhi Health Service (Allopathy) Rules, 2009 conferring the right of the regular appointment upon the Allopathy doctors, who were

appointed on ad hoc basis and disposed of the Writ Petitions on 07.10.2013, leaving it open to the respondents to take a decision whether similar Rules can be framed in respect of Dental Surgeons. It was directed that if the Rules cannot be framed, a reasoned order be passed in that regard. The applicants were given liberty to pursue further remedies.

2. The applicants filed Contempt Petition No. 879/2014. It was represented by the respondents that a set of draft Rules was placed before Council of Ministers of Delhi Government and that would be notified after the UPSC and Lt. Governor approved the same. Taking note of that, the Hon'ble Delhi High Court closed the Contempt Petition by observing that the order in Writ Petitions is complied with.

3. This OA is filed seeking various reliefs ranging from the one, requiring the respondents to place the draft Rules before the Lt. Governor to issuance of a Notification in

respect of Rules, conferring the benefit of regular appointment on the applicants.

4. The applicants contend that though it was represented by the respondent before the Hon'ble Delhi High Court in the Contempt case that the matter was pending decision with the Cabinet, it emerged that by that time, the Cabinet has cleared the draft Rules on 29.07.2013 and the remaining steps, such as, seeking the approval of Lt. Governor, and the UPSC and publication in the Gazette, are not taking place.

5. Respondents filed counter affidavit opposing the OA. It is stated that the applicants do not have any cause of action and the relief claimed in the OA is impermissible in law.

6. We heard Sh. Rajeev Sharma, learned counsel for the applicants and Sh. Amit Anand, learned counsel for the respondents.

7. This is the second round of litigation by the applicants. In the first round, the Tribunal declined the relief sought for.

The Hon'ble Delhi High Court has directed the respondents to consider the feasibility of framing of fresh Rules or to pass a reasoned order in that behalf. In the contempt case, it was represented that the draft Rules are under circulation. The order passed by the Hon'ble Delhi High Court reads as under:-

“Learned counsel for respondents states that respondents have taken a reasoned decision to apply the rules akin to Delhi Health Services Allopathy Rules, 2009 to Dentists on the principle of parity of Dentists with Allopaths. He further states that the rules are pending consideration before the Council of Ministers of the Delhi Government and shall be notified after approval by Union Public Service Commission and thereafter, by the Lieutenant Governor.

In view of the aforesaid statement, the mandate of the Division Bench's order dated 07th October, 2013 in W.P.(C) 6512/2002 stands complied with.

Accordingly, present contempt petition and applications are disposed of as satisfied.”

From this, it becomes clear that the High Court was satisfied that the order passed in Writ Petitions has been complied with.

8. According to the applicants, the Rules need to be notified. It is only the prerogative of the High Court to issue further directions in this behalf. Once it was observed

that order in the Writ Petitions was complied with, the Tribunal cannot proceed on the assumption that something more is required to be done. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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