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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

RA NO. 181/2003 IN
MA NO. 1180/2003
OA NO. 1116/2003

This the 6th day of October, 2003

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Dr. Nathu Lal, CMO(NFSG)
Son of Sh. Devi Dass
R/o 119, Laxmi Bai Nagar.
New Delhi-110023.

Through Surat Singh, Advocate.
Ch. No.216, Patiala House Courts.
New Delhi.

(By Advocate: Sh. Surat Singh)

Versus

1. Union of India
through the Secretary,
Ministry of Health & Family Welfare.
(Department of Health)
Nirman Bhavan,
New Delhi-110011.
2. The Additional Director (CGHS)(HQ).
CGHS, Nirman Bhawan,
New Delhi-110011.
3. The Additional Director (SZ).
CGHS, South Zone.
R.K.Puram, Sector-8,
New Delhi-110022.
4. The Chief Medical Officer Incharge.
CGHS Dispensary No.12.
Kidwai Nagar (East).
New Delhi-110023.

(By Advocate: Sh. V.S.R.Krishna)

O R D E R

By Sh. Kuldip Singh, Member (J)

By this order I am deciding RA-181/2003 and
OA-1116/2003. MA-1180/2003 has already been disposed of.

2. Facts in brief are that OA-1116/2003 has been filed
whereby applicant has challenged the order dated 26.3.2003
vide which applicant has been transferred from CGHS, Delhi to
Govt. of NCT of Delhi. When the OA was filed, applicant had

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prayed for interim order. Respondents had not been appearing initially and vide order dated 7.5.2003 one of the Coordinate Bench of this Tribunal had directed for issuing notice to the respondents and directed that case be listed for 10.7.2003, meaning thereby that notice even on interim relief was issued. Thereafter applicant filed an MA-1180/2003. The coordinate bench of this Tribunal again directed notice on MA as well as on interim relief for 6.6.2003 which was listed before the Vacation Bench. On 6.6.2003 the court ordered that since the applicant had already asked for interim relief and notice had already been issued on the same, so during vacation this fresh application does not lie and accordingly the MA was dismissed and case was listed on the question of interim relief itself for 10.7.2003. Finally the case was taken up for hearing.

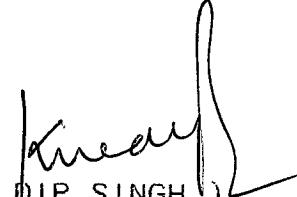
3. Counsel for applicant pointed out that applicant had already joined in the office of Govt. of NCT of Delhi where he has been ordered to be transferred, so he did not press his relief for stay of transfer but simply submitted that the applicant has not been paid salary. Moreover, the applicant has not been relieved properly, so direction should be issued to the respondents to pay his salary. Applicant did not press even the review for the order dated 6.6.2003 vide which MA-1180/2003 has been disposed of as the matter was being taken up finally for arguments.

4. Now the question remains to be decided is whether in this OA the respondents can be directed to pay his salary for the intervening period, i.e., from his date of transfer till the date of joining under the Govt. of NCT of Delhi. As regards this question is concerned, in this regard since no specific plea had been taken by the applicant in the OA as applicant

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had challenged only the transfer order and till that time there was no dispute with regard to the payment of salary. For this purpose, I find that the Tribunal cannot pass any order directing the respondents to pay salary and wages to the applicant for the intervening period. Since the OA has already become infructuous, as applicant has already joined the office where he had been transferred, so no directions can be given to the respondents for cancelling the order dated 26.3.2003 itself. The OA has to be disposed of having become infructuous.

5. As regards the issue of non-payment of salary for the intervening period is concerned, applicant shall make a consolidated representation to the department and department shall decide his claim for wages for the intervening period within a period of one month from the date of receipt of the representation from the applicant. Accordingly, OA as well as RA stands disposed of.


(KULDIP SINGH)
Member (J)

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