

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.2556 OF 2003

New Delhi, this the 14th day of JANUARY 2004

HON'BLE MR. JUSTICE V.S.AGGARWAL, CHAIRMAN
HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Dr. Vikas Gupta
C/o Narendras Hospital
Mukerian
Distt.Hoshiarpur
Punjab.

(Service of all notices on the applicant's counsel's
following address:

Mr. Nidhesh Gupta/Mr.Naveen Singh
Advocates
E-21, Anand Niketan
New Delhi- 110 021)

.....Applicant

(By Advocate : Sh. Nidhesh Gupta)

Versus

1. Government of Delhi.
Through Secretary
Ministry of Health
New Delhi.
2. G.B. Pant Hospital
Near Delhi Gate
Through its Director
New Delhi.
3. Faculty of Medical Science
Delhi University
Through its Deputy Registrar(Medical)
VPCI Building, Patel Chest
Delhi.
4. Post Graduate Institute of
Medical Education and Research
through its Director-
Chandigarh.
5. Union of India
through Secretary
Ministry of Health & Family Welfare
Nirman Bhawan
New Delhi.

(Service of all notices to the Respondents on the
above addresses.

.....Respondents

(By Advocate : Mrs. P.K. Gupta for Respondents No.1
and 2.

None for Respondents No.3 to 5)

[Signature]
C. K. Gupta

ORDER

MR.R.K.Upadhyaya, Administrative Member

This application under section 19 of the Administrative Tribunals Act, 1985 has been filed claiming the following reliefs:-

"(a) issue such orders or directions as may be considered appropriate directing the Respondent No.2 institute to permit the Petitioner to rejoin the M.Ch course with the said institute; or

In the alternate, the Respondent No.2 institute should grant the requisite approval and the relieving certificate required by the Petitioner to pursue his work at the Respondent No.4 institute.

(b) restrain the Respondents from taking any action against the Petitioner in pursuance of the Memorandums dated 8.8.2003 and 19.8.2003 issued by the Respondent Nos.2 and 4 institutes respectively; and

(c) pass such other or further orders as may be considered appropriate."

2. It is stated by the applicant that he completed his MBBS as well as M.S.Surgery, Course. He also completed three years' tenure job on 1.1.2002 as Senior Resident at Chandigarh. He applied for M.Ch. (G.I.Surgery) Course in G.B.Pant Hospital, New Delhi in January, 2002. On being selected for M.Ch. Course, he joined G.B.Pant Hospital for M.Ch. Course on 1.5.2002. He also applied for the post of Assistant Professor, General Surgery, PGI, Chandigarh in April, 2002. He obtained No Objection Certificate dated 11.5.2002 (Annexure-P1) from Medical Superintendent, G.B.Pant Hospital. This No Objection Certificate was to the effect that "this office has no objection if Dr. Vikas Gupta, Senior Resident in the department of GI Surgery of this hospital appears for interview for higher post in any Govt. or Private

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Institution". The applicant states that he appeared in the interview in July, 2002 and was offered appointment. The applicant further claims that he made an application dated 17.12.2002 (Annexure-P3) to the Medical Superintendent, G.B.Pant Hospital, New Delhi for temporary discontinuation of M.Ch. (G.I.Surgery), Course w.e.f. 17.12.2002. He also requested for issue of Relieving Certificate. By another letter dated 16.1.2003 had requested "to extend" his "resignation notice upto 4.2.2003". The applicant joined PGI Chandigarh on 6.2.2003. It appears that the applicant was not regularly relieved from G.B.Pant Hospital (Respondent No.2) to join PGI Chandigarh. It also appears that the applicant became aware of the fact that he could not join as Assistant Professor in PGI Chandigarh without making payment of Rs.1.5 lacs as bond money. He also did not want to leave M.Ch. Course but only wanted long leave and wished to resume the course on a later date. Since it did not appear to be feasible, he asked Respondent No.2 to allow him to resume his M.Ch. Course. During the course of argument, the learned counsel of the applicant stated that the applicant is willing to resign his post of Assistant Professor in PGI Chandigarh and join the M.Ch. Course in G.B.Pant Hospital. However, the respondent No.2 has not indicated as to when he will be allowed to join the course. It has been stated by the learned counsel of the applicant that neither the original certificates were taken from the applicant nor bond of Rs.1.5 lacs was got executed from the applicant. Learned counsel also stated that the applicant was also willing to furnish the bond of Rs.1.5 lacs to Respondent No.2

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G.B.Pant Hospital. If he is relieved from the M.Ch. Course, he could continue the present assignment as Assistant Professor at PGI, Chandigarh. On these direct the respondents suitably and grant the reliefs as claimed.

3. The respondents have opposed this application and filed reply. Respondents No.1 and 2 in their reply have stated that University of Delhi, Faculty of Medical Sciences, imparts the course. The University is the body which conducts the entrance exams to select the students and recommends them to Respondent No.2 to undergo the said on the job course. The University carries out the final exam. and also issues the degree on completion of the course. It is further stated on behalf of Respondents No.1 and 2 that the individual while joining the course should furnish an undertaking along with the bond of Rs.1.5 lacs and original certificates to Respondent No.2 and in the event of quitting the course, the bond money would be realised. In the present case, the respondent inadvertently did not take the bond as well the originals at the initial stage. When the applicant sought NOC on 6.5.2002 for an interview in PGI, Chandigarh, the respondent sought the said undertaking. It is further stated that the applicant on selection at PGI submitted resignation on 19.12.2002, however, he was not relieved for want of bond money. The applicant did not report for duty after 6.2.2003. It is further stated that the University has specifically stated that as per Ordinance, once applicant submitted resignation, he could not be relieved without realisation of bond

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money. It is also stated that the Hospital vide Memo dated 14.2.2003 directed the applicant to furnish the bond money and original certificates. According to these respondents, the applicant has violated the PG Ordinance by joining PGI Chandigarh without completing the formalities of depositing of bond money. The matter of allowing the applicant to resume the course is not within the ambit of Respondent No.2 hospital.

4. We have also taken into account the reply filed by Respondent No.3 Delhi University. The Delhi University opposed the reliefs claimed by the applicant on the ground that the present application relates to admission and continuance in M.Ch. Course. It is not a service dispute. Even in regard to service disputes concerning Delhi University, this Tribunal has no jurisdiction. Even though the representation was made earlier on behalf of Respondent No.3 Delhi University but no body was present on the date fixed for hearing.

5. The applicant has also filed additional affidavit in support of his claim that he is an employee of Respondent No.2 Hospital where he is pursuing his M.Ch Course and working as Senior Resident Medical Officer. He has filed a copy of Form No.16 (Income Tax Deduction at Source Certificate) and stated that it is only the Hospital who is responsible for relieving the applicant. The learned counsel of the applicant further stated that this Tribunal has jurisdiction regarding Respondents No.1 and 2 against whom the reliefs have been claimed. The applicant does not

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seek any relief against Delhi University Respondent No.3. Therefore, their objection is of no consequence.

6. We have considered the submissions made on behalf of the parties including the arguments advanced at the time of hearing. In our opinion, it is the applicant who has to decide whether he wants to pursue his M.Ch. Course or to remain employed as Assistant Professor in PGI, Chandigarh. In case, he intends to continue in the employment of PGI, Chandigarh, he must deposit Rs. 1.5 lacs with Respondent No.2 forthwith who are willing to take the same and to issue him a relieving certificate. This has been so stated on behalf of Respondent No.2 during the course of arguments. The learned counsel of the applicant has invited our attention to letter dated 17/18.2.2003 issued by Faculty of Medical Sciences, University of Delhi, Delhi to the Medical Superintendent, G.B.Pant Hospital, New Delhi wherein it has been informed that "there is no provision in the PG Ordinance to join the service and simultaneously be on the roll of the Hospital as PG course is also a full time course. As such if he joins service he is not eligible to be on the roll of the Hospital and cannot be granted leave. Dr. Vikas Gupta be, therefore, asked to deposit the Bond Money immediately in case he wants to join service in PGMIR and intimate this office about the outcome immediately for further necessary action in the matter." Learned counsel of the applicant stated that this letter merely asked Respondent No.2 to get the bond money of Rs.1.5 lacs deposited before the applicant was relieved from M.Ch Course. The

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applicant has already tendered his resignation and given such a notice as mentioned in para 2 earlier. So there is no question of his being allowed to rejoin the M.Ch course in Respondent No.2 hospital. In our opinion, the applicant should pay Rs.1.5 lacs within a period of one month from today. Thereafter, Respondent No.2 is directed to issue Relieving Certificate from M.Ch Course within further period of two weeks from the date of deposit of the said money.

7. The applicant has not claimed any relief against Respondent No.3. Therefore, we are of the view that this petition can be disposed of with the directions as in the preceding paragraph. This Tribunal has no jurisdiction in respect of service matters of the employees of Respondent No.3.

8. In view of our directions in the preceding paragraphs, this application is disposed of without any order as to costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER



(V.S. AGGARWAL)
CHAIRMAN

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