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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment Delivered On: 17.11.2020

W.P.(C) 9059/2020

GOVT OF NCT OF DLEHI & ANR.

.....Petitioners

versus

DR. HARIDAYA HULAS NAG & ORS.

.....Respondents

Advocates who appeared in this case:

For the Petitioners	:	Mrs. Avnish Ahlawat, SC for GNCTD.
For the Respondents	:	Dr. Ashwani Bhardwaj, Advocate for R-1 & R-2.
		Mr. Alok Singh, Advocate for R-3/Performa Respondent.

CORAM:

HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

HON'BLE MR. JUSTICE TALWANT SINGH

J U D G M E N T

SIDDHARTH MRIDUL, J. (Open Court – via Video Conferencing)

The present matter has been taken up for hearing by way of Video Conferencing on account of COVID-19 pandemic.

CM APPL. 29232/2020 (Exemption)

Exemption granted subject to all just exceptions.

The application is disposed of accordingly.

W.P.(C) 9059/2020 & CM APPL. 29231/2020 (Stay)

1. The present writ petition under Article 226 read with 227 of the Constitution of India assails the order dated 19.08.2020 passed in

M.A. No.1222/2020 in O.A. No.3060/2018 and order dated 21.09.2020 passed in C.P. No.180/2020 by the learned Central Administrative Tribunal, Principal Bench, New Delhi.

2. Issue notice.
3. Counsel, as above, accept notice on behalf of the respondents.
4. Dr. Ashwani Bhardwaj, learned counsel appearing on behalf of respondent No.1/Dr. Hridaya Hulas Nag, the original applicant before the Tribunal states that the orders impugned in the present writ petition may be set aside with the consent of the parties and the learned Central Administrative Tribunal, Principal Bench, be requested to expedite the adjudication of the Original Application instituted on his behalf expeditiously.
5. Mrs. Avnish Ahlawat, learned Standing Counsel appearing on behalf of the petitioner/GNCTD readily agrees with the submission made on behalf of respondent No.1.
6. Mr. Alok Singh, learned counsel has put in appearance on behalf of R-3/UOI, the perma respondent.
7. The operative portion of the order dated 19.08.2020 passed in M.A. No.1222/2020 in O.A. No.3060/2018 reads as follows:-

“4. From a perusal of the order dated 03.05.2020, it is evident that the respondent No.4 was holding the post of HOD (G.I. Surgery) and he was promoted as Medical Director, GIPMER along with additional charge of Director-Principal, Dr. B.S.A.

Medical College. The order does not mention that it is an ad hoc arrangement. Even if it is so, the same person cannot handle so many positions. If that is permitted, the efficiency of the Hospital would certainly be compromised. The post of HOD needs to be assigned to another senior professor, in accordance with the rules. In case the 4th respondent is to be brought to the post of HOD for any reason, he shall be entitled to do so and the new incumbent has to give way.

5. Therefore, we direct the respondents to take steps to fill up the post of HOD (G.I. Surgery) in GIPMER Hospital forthwith, but not later than one week and in the order of appointment, a clause shall be added to the effect that "the same shall be subject to the rights of Dr. Anil Agarwal."

8. The relevant paras of the order dated 21.09.2020 passed in C.P.

No.180/2020 reads as follows:-

"We take serious exception to the manner in which the Department of Health and Family Welfare and the administration of G.B. Pant Hospital, Delhi are functioning After hearing the parties at length, we passed an order dated 19.08.2020 indicating that the steps to be taken to fill up the post of HoD (GI, Surgery) in the 3rd respondent hospital, i.e., G.B. Pant Hospital, within one week. Though nearly four weeks have elapsed, no steps were taken. A contempt notice was issued by learned counsel for the applicant, but did not evoke any response. The applicant filed CP No.180/2020.

2. It is rather unfortunate that such insensitive persons are holding high positions and they do not even care to implement the orders of the Tribunal. In case, they had any reservations about it, they are supposed to take further steps in accordance with law. Sitting upon the orders and ignoring them does not add to their administrative efficiency. On the other hand, it reflects the lack of regard for rule of law.

3. The nature of steps to be taken against the respondents in a contempt case would be considered after the counter affidavit is filed. For the present, we direct that the 4th respondents shall not discharge any duties in the administration, except the work of Director. Anybody who violates the order would be treated as a contemnor per se.”

9. A perusal of the impugned orders leaves no manner of doubt that they have been passed at an interim stage during the pendency of the Original Application No.3060/2018 instituted on behalf of Dr.Hridaya Hulas Nag/respondent No.1 herein before the learned Central Administrative Tribunal, which is yet to be adjudicated finally.

10. In view of the foregoing, since the Original Application instituted on behalf of the respondent No.1 is still pending adjudication, we set aside the impugned order dated 19.08.2020 passed in M.A. No.1222/2020 in O.A. No.3060/2018 and the order dated 21.09.2020 passed in C.P. No.180/2020 and remit the matter back to the learned Central Administrative Tribunal requesting them to adjudicate the Original Application No.3060/2018. pending before them as expeditiously as possible and preferably within a period of three months from the date the Original Application is listed before the Central Administrative Tribunal, Principal Bench.

11. No further directions are called for.

12. The parties are directed to appear before the learned Central Administrative Tribunal for further proceedings in O.A. No.3060/2018 on 26.11.2020.

13. With the above directions, the writ petition along with pending application is disposed of.

14. A copy of this order be sent to the Registrar, Central Administrative Tribunal, Principal Bench, New Delhi, to be placed before the appropriate Bench for necessary information and compliance and be also uploaded on the website of this Court.

**SIDDHARTH MRIDUL
(JUDGE)**

**TALWANT SINGH
(JUDGE)**

**NOVEMBER 17, 2020
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[Click here to check corrigendum, if any](#)