

\$~17 (2021)

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 05.08.2021

+ **W.P.(C) 7629/2021 & CM APPL. Nos.23882-83/2021**

RAJKUMAR CHEJARA Petitioner

Through: Mr. Ritesh Kumar, Adv.

versus

UNION OF INDIA & ORS. Respondents

Through: Ms. Shruti Shivkumar, Adv. for R-1
and 2.

Mr. Harpreet Singh with Ms. Suhani
Mathur, Advs. for R-5.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE TALWANT SINGH

[Court hearing convened *via* video-conferencing on account of COVID-19]

RAJIV SHAKDHER, J.: (ORAL)

CM APPL. No.23883/2021

1. Allowed, subject to just exceptions.

W.P.(C) No.7629/2021 & CM APPL. No.23882/2021 [*Application filed on behalf of the petitioner seeking interim relief*]

2. This writ petition is directed against the order dated 11.5.2021, passed by the Central Administrative Tribunal [in short “the Tribunal”] in OA No.363/2021.

3. The record shows that, respondent no.5 had approached the Tribunal, via aforementioned original application, which has been allowed vide the aforementioned impugned order.

W.P.(C) 7629/2021

1/4

3.1. What emerges, on the perusal of the case papers, briefly, is that, respondent no.5 was appointed as the Head of Unit (in short “HoU”) in Department of Surgery, Safdarjung Hospital, vide order dated 29.6.2020.

3.2. The aforesaid order, dated 29.6.2020, was, however, withdrawn on 24.8.2020, whereby respondent no.4 i.e. Dr. Shivani B. Paruthy was appointed as the HoU.

3.3. It would be relevant to note that, the petitioner herein was arrayed as respondent no.5 before the Tribunal, and had also been appointed as the HoU-VI in the Department of Surgery, vide order dated 28.12.2020, with effect from 01.01.2021.

3.4. Before the Tribunal, respondent no.5 had sought a direction to quash the orders dated 24.8.2020 and 28.12.2020. As noticed above, these orders have been set aside by the Tribunal, leaving it open to respondent nos. 2 and 3 to pass a fresh reasoned order, after hearing respondent no.5 i.e., the original applicant. The Tribunal, via the impugned order, also directed that respondent no. 5 would be entitled to continue as HoU, till the said exercise is completed.

4. Ms. Shruti Shivkumar, who appears for respondent nos.1 and 2, informs us that, the directions of the Tribunal, contained in the impugned order i.e. the order dated 11.5.2021, have not been complied, as yet.

5. In our view, given the foregoing, the writ petition can be disposed of, with the direction that the concerned respondents will comply with the direction of the Tribunal, contained in paragraph 10 of the impugned order.

6. It has been pointed out by Mr. Ritesh Kumar, who appears for the petitioner, that, in the meanwhile, the hospital, which is arrayed as respondent no.3, has issued an office order dated 5.6.2021, whereby respondent no.5, as also respondent no. 4, have been appointed as the HoU.

6.1. Mr. Kumar says that, the aforesaid order dated 5.6.2021, does not include the name of the petitioner. The said order is marked as Annexure P-16 and appended on page 122 of the case file.

7. Therefore, in the fitness of things, in our view, not only respondent no. 5/Dr. V.C. Aggarwal, but also the petitioner and respondent no. 4/Dr. Shivani B. Paruthy are required to be heard by the concerned respondents i.e. respondent nos.1 and 2.

8. Mr. Harpreet Singh, who appears on behalf of respondent no.5, says that he would have no objection if such a direction is issued.

9. It is relevant to note that in paragraph 10 of the impugned order, directions have erroneously been issued to respondent nos.2 and 3. The directions should have been issued *vis-a-vis* respondent nos.1 and 2.

10. Accordingly, issue notice.

10.1. Ms. Shivkumar accepts notice on behalf of respondent nos.1 and 2 while Mr. Harpreet Singh accepts notice on behalf of respondent no.5. Counsel for the said respondents say that they do not wish to file a counter-affidavit in view of the directions we propose to issue. Notice at this stage need not be issued to the remaining respondents as substantially the directions issued hereafter are aligned with order of the Tribunal and protect the interest of respondent no.4.

11. The writ petition is, accordingly, disposed of with the following agreed directions:

(i) Respondent nos. 1 and 2 will comply with the direction of the Tribunal, contained in paragraph 10 of the order dated 11.5.2021. Apart from respondent no. 5, the concerned respondents will also give hearing to the petitioner as also respondent no. 4 and pass a fresh reasoned order.

(ii) After hearing the petitioner and respondent nos. 4 and 5, a copy of the order passed by respondent nos.1 and 2, shall be furnished to these persons.

12. Needless to add, respondent nos. 1 and 2 would act with due expedition. Respondent nos.1 and 2 will endeavour to complete the exercise, as indicated above, within six weeks from today.

13. The writ petition is disposed of in the aforesaid terms. Pending application shall stand closed. Registry will ensure that a copy of the order passed today is served on respondent nos.3 and 4 as well. In case of any difficulty, they would have liberty to approach the Court.

RAJIV SHAKDHER, J

TALWANT SINGH, J

AUGUST 5, 2021/pmc

[Click here to check corrigendum, if any](#)

W.P.(C) 7629/2021

4/4