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

% *Decided on: 10th April, 2023*

+ W.P.(C) 4435/2006

DR.V.S.LUV

..... Petitioner

Through: Mr. Manu Nayar with
Ms. Samvartika Pathak,
Mr. Nitin Kumar, Ms. Rhea
Rao and Ms. Rima Rao,
Advocates.
(M): 9811331106

Email: manu_nayar@hotmail.com

versus

DELHI BHARTIYA CHIKTSA PARISHAD Respondent

Through: Mr. Ashok Mahajan, Advocate
for respondent no. 1.
(M): 9811106159

Email: ashokmahajan79@gmail.com

Mr. Santosh K. Tripathi with
Mr. Arun Panwar, Ms. Mehak
Rankawat and Mr. Tapes
Raghav, Advocates.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed with prayer to set aside the order dated 07.03.2006 by which respondent no. 4 was appointed as Registrar on Ad-hoc basis with the respondent i.e. Delhi Bhartiya Chikitsa Parishad. There is further prayer for directions to the respondents to pay the petitioner the salary for the entire period of 6 months for which the petitioner had been appointed on ad-hoc basis as

Registrar with the respondent.

2. At the outset, learned counsel for the petitioner submits that since the petitioner is already 80 years of the age at the moment, therefore, the petitioner is giving up the challenge to the appointment of respondent no. 4 as Registrar on ad-hoc basis. Thus, it is the contention on behalf of the learned counsel for the petitioner that he confines the relief only to payment of the salary to the petitioner for the entire period of 6 months for which the petitioner was appointed on ad-hoc basis.

3. It the case on behalf of the petitioner that the petitioner superannuated from the Delhi Administration as Chief Medical Officer, Ayurvedic. Subsequent to the superannuation of the petitioner, vide order dated 01.12.2005, the petitioner was appointed on ad-hoc basis as Registrar of respondent i.e. Delhi Bhartiya Chikitsa Parishad for a period of 6 months from the date of joining. The office order dated 01.12.2005 as issued by respondent is reproduced as below:-

*“Delhi Bharatiya Chikitsa Parishad
CSC III B Block Preet Vihar, New Delhi*

No. F.1 (59)/05/DISMH/Ay/Pt. File/6763- Dated 1/12/05

Vaidya V.S. Day is hereby appointed as “Registrar” in the Delhi Bharatiya Chikitsa Parishad on adhoc basis for Six months from the date of his joining. This issues consequent upon approval of Government of NCT of Delhi.

*K.S.WAHI
Administrator,
Delhi Bharatiya Chikitsa Parishad”*

4. It is the case of the petitioner that though he was appointed on ad-hoc basis for 6 months, he was substituted by respondent no. 4, who was appointed as Registrar on ad-hoc basis vide office order dated 07.03.2006. It is, thus, the case on behalf of the petitioner that though respondent no. 4 was appointed vide office order dated 07.03.2006, the petitioner is entitled for payment of salary for the entire period of 6 months i.e. from 01.12.2005 till 01.06.2006.

5. On the other hand, learned counsel appearing for the respondent submits that the petitioner worked for the respondent only for a period of 3 months and one week i.e. from 01.12.2005 till 07.03.2006. It is submitted that the petitioner has already been paid full salary for the said period of 3 months one week for which he worked as Registrar on ad-hoc basis. Thus, petitioner was paid an amount of Rs. 70,968/- vide cheque dated 05.07.2010, which according to the petitioner, was received on 29.11.2010.

6. Attention of this Court has also been drawn to the document of handing over and taking over of the charge on 07.03.2006, wherein the petitioner handed over the charge to respondent no. 4. Thus, it is submitted that full amount of salary has already been paid to the petitioner for the period for which he worked.

7. I have heard learned counsels for the parties and have also perused the documents.

8. Perusal of the documents show that petitioner was appointed on ad-hoc basis as Registrar vide office order dated 01.12.2005 for a period of 6 months. However, before the period of 6 months was over,

the petitioner was replaced and by office order dated 07.03.2006 issued by the Government of NCT of Delhi, Health and Family Welfare Department, respondent no. 4 was appointed as Registrar. It is an admitted fact that upon appointment of respondent no. 4 vide office order dated 07.03.2006, the petitioner handed over the charge to the respondent no. 4. The document pertaining to handing over of the charge by the petitioner and taking over the charge by respondent no. 4 is on record, having been filed along with counter affidavit on behalf of the respondent no. 1.

9. It is also seen that the respondent was governed by The Delhi Bhartiya Chikitsa Parishad Act, 1998 (1998 Act). As per Section 2(g) of the said Act, Government has been defined as follows:-

“(g) "Government" means the Lieutenant Governor as referred to in clause (l) of article 239 AA of the Constitution;”

10. It is seen from the record that after appointment of respondent no. 4 on ad-hoc basis vide office order dated 07.03.2006, the petitioner herein gave a letter dated 10.03.2006 wherein he submitted that he will not be able to come to office w.e.f. from 08, 9, 10, 13 and 14 of March, 2006. As submitted on behalf of the respondent, the petitioner thereafter never undertook any duties as Registrar. It is also seen that there is nothing on record to show that any representation was made by the petitioner to the government, since as per the 1998 Act which governs the respondent, the respondent was subject to jurisdiction of the Delhi Government.

11. Section 3 of the 1998 Act clearly shows that respondent is a

body corporate having perpetual succession and a common seal and has been incorporated by notification in the Official Gazette by the Government. Thus, there is no representation of the petitioner to the Government challenging his removal as ad-hoc Registrar.

12. Learned counsel for the petitioner confirms the fact that he has already received an amount of Rs. 70,968/- in the year 2010 during the pendency of the present writ petition for the period of 3 months for which he worked as Registrar with respondent on ad-hoc basis.

13. Reliance by learned counsel for the petitioner on the judgment of Supreme Court in the case of *Manish Gupta & Another Vs President, Jan Bhagidari Samiti and Others.*, reported as 2022 SCC OnLine SC 485, does not help the case of the petitioner. The said judgment is on the issue that an ad-hoc employee cannot be replaced by another ad-hoc employee. There is no quarrel with the said proposition. However, in the present case as it has come to the fore during the course of the arguments, that respondent no. 4 had subsequently resigned and thereafter many other persons have been appointed as Registrar by the respondent time and again. Besides, at this stage when the petitioner has already reached the age of 80 years, there is no question of any directions for continuation of the petitioner with the respondent. Besides, it has also come on record that the petitioner was appointed on ad-hoc basis by the respondent only after superannuation. Therefore, this judgment would be no help to the petitioner.

14. The contention of the petitioner that no Principles of Natural Justice were followed and that the petitioner was not granted any

hearing at the time of his substitution by respondent no. 4, also holds no water. A person who is appointed on ad-hoc basis does not have any right or lien over the post to which he has been appointed on ad-hoc basis. Therefore, this contention of the petitioner also fails.

15. Learned counsel for the petitioner at the outset had already confined the present writ petition to the prayer for receipt of salary for the 6 months as per the period of his ad-hoc appointment as per office order dated 01.12.2005. The said issue does not survive any longer. As noted above, the petitioner has already received the full amount of salary for the period of 3 months one week i.e. from 01.12.2005 till 07.03.2006, the period for which the petitioner actually discharged his services as Registrar with the respondent on ad-hoc basis.

16. In view of the aforesaid, it is clear that the petitioner has already received the full salary for the period for which he worked. Therefore, no directions can be granted for release of salary for rest of the three months, which the petitioner is claiming in terms of the period for which he was appointed in terms of office order dated 01.12.2005.

17. However, considering the fact that the petitioner received the salary for the period from 01.12.2005 till 07.03.2006, only in the year 2010, which according to the petitioner, he received on 29.11.2010, it is directed that the petitioner shall be granted interest at the rate of 9% per annum from 07.03.2006 till 29.11.2010.

18. With the aforesaid directions, the present writ petition is disposed of.

MINI PUSHKARNA, J

APRIL 10th, 2023/c