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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 13422/2024, CM APPLs. 56112/2024, 56113/2024
56114/2024 & 56117/2024

ALL INDIA INSTITUTE OF
MEDICAL SCIENCES

.....Petitioner

Through: Mr. Anand Varma, Mr. Ayush
Gupta and Mr. Apoorva Pandey, Advs.

versus

ARVIND KUMAR & ORS.

.....Respondents

Through: Mr. Chetanya Puri, SPC with
Ms. Nisha Puri and Mr. Shivi Tiwari, Advs
for R-2/UOI.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE DR. JUSTICE SUDHIR KUMAR JAIN

JUDGMENT(ORAL)

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07.10.2024

C.HARI SHANKAR, J.

1. A reading of the impugned order dated 14 February 2024 passed by the learned Central Administrative Tribunal¹ discloses that, though the OA 155/2024 was listed only for hearing on the respondents' prayer for interim relief, the learned Tribunal chose to take up the matter and hear it for final disposal, rejecting what the learned Tribunal itself refers to as a "fair submission" made by learned Counsel for the petitioner (the respondent before the learned Tribunal) for reasonable time to address the issues raised in the OA by way of a

¹ "the learned Tribunal" hereinafter



counter reply. Para 5 of the impugned order once again refers to the “reasonable” request of learned Counsel for the petitioner (the respondents before the learned Tribunal) for being allowed time to file a counter reply. Para 1 of the impugned judgment may be reproduced thus:

The OA has been listed before us for consideration of the applicant’s prayer for interim relief. On account of detailed reasons which are going to be recorded below, we have taken it up for final disposal, despite a fair submission made by Mr. V. S. R. Krishna, learned counsel for the respondents that he requires a reasonable period of time to address the issues raised in the OA in detail by way of filing a counter reply.

2. The reasoning for this somewhat peculiar procedure having been adopted by the learned Tribunal is to be found in para 10 of the impugned judgment, which reads as under:

“10. If we consider the prayer for interim relief as drafted and outlined in para 9 of the OA, we may either be effecting any 3rd party interest or in fact the relief may itself become infructuous as status of the posts having been filled up by way of persons actually joining is not known as on date. Although, we take note of the submission of the learned counsel for the respondents that all the posts have not been filled up, however, it is an oral submission and we are not going to consider it. Another alternative before us could be to make the entire selection subject to the outcome of the OA, but that would amount to setting the selection process in a cloud of uncertainty.”

3. Howsoever urgent a matter may be, on a date when the petition was listed for hearing on interim relief, there was no justification, in our mind, whatsoever, for the learned Tribunal to have taken up the matter and heard it finally without consent of both sides. Had the matter not been listed for interim relief on that date, perhaps the situation may have been different. However, it is fairly recorded by the learned Tribunal that the matter was listed for arguments on interim relief and that, in fact, learned Counsel for the respondents had

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made a request for time to file a reply – which the learned Tribunal itself acknowledges to be “reasonable”.

4. We do not, in any manner, doubt the *bona fides* of the learned Tribunal. No doubt, the learned Members may have acted in the interests of what they felt was the urgency of the matter. That, however, cannot constitute a justifiable basis for deciding the matter finally on a date when it was listed for hearing on interim relief without allowing the *admittedly* reasonable request of the respondents to file a counter affidavit. Such a course of action is permissible, *but with consent of both sides*.

5. Accordingly, we have no option but to set aside the impugned order.

6. As a result, the impugned order dated 14 February 2024 passed by the learned Tribunal in OA 155/2024 is quashed and set aside. The OA is remanded to the learned Tribunal for consideration afresh, completely uninfluenced by the impugned order and anything that may be contained therein.

7. In order to expedite matters, the petitioner is directed to file reply to the OA positively, on or before 14 October 2024. Rejoinder thereto, if any, be filed on or before 17 October 2024.

8. List for final hearing before the learned Tribunal on 18 October 2024.



9. No extension of time for filing reply or rejoinder would be granted and no adjournment would be sought by either side.

10. We request the learned Tribunal to endeavor to hear the matter finally on 18 October 2024 and to dispose of the matter as expeditiously as possible.

11. The petition is allowed in the aforesaid terms, with no orders as to costs.

12. Needless to say, we have expressed no views regarding the merits of the dispute between the parties, or on the merits of the order passed by the learned Tribunal under challenge before us.

C.HARI SHANKAR, J.

DR. SUDHIR KUMAR JAIN, J.

OCTOBER 7, 2024/N

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