



2025:DHC:805-DB



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

Date of decision: 10.02.2025

+ **W.P.(C) 1566/2025**

JAGDISH PRASAD AND ORS

.....Petitioners

Through: Mr. M. K. Bhardwaj, Mr.
Subodh Kumar Kaushik, Ms.
Priyanka and Mr. Maria, Advs.

versus

GOVT OF NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Nitesh Kumar Singh, Ms.
Laavanya Kaushik, Ms. Aliza
Alam and Mr. Mohnish
Sehrawat, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 7653/2025

1. Allowed, subject to all just exceptions.

W.P.(C) 1566/2025, CM APPL. 7652/2025

2. This petition has been filed by the petitioners, seeking the following prayers:-

“(i) To quash and set aside the impugned order dated 16.09.2022 passed by the Ld. Central Administrative Tribunal, principal Bench, New Delhi in Original Application No.



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2602/2015.

(ii) *To declare the action of respondents in not declaring them as confirmed Staff Nurse (Male) as illegal, arbitrary and unjustified.*

(iii) *To declare the action of respondents in initiating proceedings for terminating their services by treating them as probationer vide Show Cause Notice dated 28.08.2014, as illegal and issue appropriate directions to treat the petitioners as confirmed employee of Department of Health & Family Welfare for all purposes.*

(iv) *To declare the proceedings initiated against the petitioners for terminating their services as probationer as illegal and direct the respondents to continue their services as done in case of similarly placed persons appointed in OBC category.*

(v) *To allow the Writ Petition with exemplary cost.*

(vi) *To pass such other and further order which their Lordships of this Hon'ble High Court deem fit and proper may please be passed."*

3. The grievance of the petitioners is that though the Original Application ("OA") filed by the petitioners, being OA No. 2602/2015, had been pending for a long period before the learned Central Administrative Tribunal ("Tribunal"), the learned Tribunal disposed of the same by the Impugned Order dated 16.09.2022, solely on the ground that the petitioners had not made a representation to the respondents against the decision of the respondents to not treat the certificates submitted by the petitioners as valid.

4. The learned counsel for the petitioners, placing reliance on the Judgment of the Supreme Court in ***D. B. Gohil v. Union of India &***



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Ors., (2010) 12 SCC 301, submits that Section 20(1) of the Administrative Tribunals Act, 1985 does not bar the maintainability of an OA before the learned Tribunal merely on the ground that the petitioners have not availed of their alternate remedies in the form of a representation or a service appeal. He submits that the learned Tribunal must exercise its jurisdiction based on the facts of each case. He submits that in the present case, as the OA filed by the petitioners had been pending adjudication before the learned Tribunal for a long period of time, the same should have been considered on its merits rather than being disposed of, as has been done in the Impugned Order, solely on the ground that the petitioners had not made a representation before the respondents before approaching the learned Tribunal.

5. We have considered the submissions made by the counsel for the petitioners.

6. The Impugned Order dated 16.09.2022, by which the learned Tribunal has disposed of the OA filed by the petitioners, observes and directs as under:-

“3. Notices were issued to the respondents and a detailed reply has also been filed. They have raised a number of objections. Be that as it may, in our considered view the applicants without exhausting the departmental remedy cannot approach this tribunal,

4. Since this matter is pending from 2015, we cannot behold this matter any further. We hereby direct the applicants to make a representation to the respondents preferably within a week and they will call on the



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representation so made and decide the same within a period of four weeks thereafter, in case any grievance still subsist, they may re-appear before this tribunal. It is clarified that we have not gone into the merits of the case.”

7. Although it is not disputed that Section 20(1) of the Administrative Tribunals Act, 1985 does not impose a complete bar on the maintainability of an O.A filed without first availing of the remedies under the relevant service rules, at the same time, the learned Tribunal has exercised its jurisdiction and discretion by way of the Impugned Order, which was not challenged by the petitioners at that relevant time but was, in fact, acted upon by the parties. In these circumstances, we do not deem it appropriate to entertain this writ petition at this belated stage.

8. From the averments in the present writ petition itself, it appears that post the passing of the Impugned Order, the petitioners, aggrieved by further action taken against them by the respondents, have again approached the learned Tribunal by first filing an application, being MA No. 146/2015, and thereafter, by way of an Original Application, being OA No. 342/2025. Though the learned counsel for the petitioners submits that the said application and the OA have been disposed of by the learned Tribunal, these orders are not before us. Accordingly, we would not make any comment on them.

9. In view of the above, we dismiss the present petition on ground of delay and laches alone. The pending application stands disposed of as infructuous.



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10. If the petitioners are aggrieved by any action taken by the respondents or by any other order passed by the learned Tribunal, it is always open to the petitioners to avail of their legal remedies, in accordance with law.

NAVIN CHAWLA, J

SHALINDER KAUR, J

FEBRUARY 10, 2025/ss/kp/DG

Click here to check corrigendum, if any