

CENTRAL ADMINISTRATIVE TRIBUNAL CHANDIGARH BENCH

Order Sheet

Item no.: 30
O.A./182/2024 (CHANDIGARH)
[TERMINATION]
Court No.: 1

No of Adjournment: 5

Order Dated: 08/04/2024

**DR HATESH KUMAR
Vs
HEALTH AND FAMILY WELFARE**

For Applicant(s) Advocate : SH. BARJESH MITTAL

For Respondent(s) Advocate : SH. ANUJ AHLUWALIA

Order of The Tribunal

This Original Application has been filed against order dated 05.01.2024 (Annexure A-1) whereby contractual service of the applicant has been terminated.

The applicant has sought for interim direction for staying operation of impugned termination order dated 05.01.2024 (A-1) pending final adjudication.

The impugned action of the respondent department has been challenged by the applicant on the ground that the applicant was appointed on the post of Orthopaedic Specialist on contract basis in Health Department UT Chandigarh vide appointment order dated 11.03.2022 (A-2) and the same was extended till 14.03.2024. Contract of the applicant has been terminated vide order dated 05.01.2024 (A-1) and no speaking order has been passed. It has been submitted by the applicant that the same is stigmatic and prejudicial to entire service career of the applicant.

The respondents have filed short reply wherein it has been submitted by the respondents that the Chandigarh Administration has time and again issued circular to the government hospitals and allied dispensaries to prescribe medicines with generic name and there was gross misconduct of the applicant regarding the same. The respondents have relied upon clause 11 & 12 of the appointment letter (A-2), relevant portion is as under:-

"11. This Contract can be terminated by either side with two months' notice or in lieu of it by paying two month's remuneration by D.H. & F.W., Chandigarh

Administration or by surrendering two months salary by the contractual employee.

12. No such notice shall be required if the termination happens to be on the ground of work and conduct having been found to be not satisfactory."

It has been further submitted by the replying respondents that such complaint has also been filed against regular medical officers.

The applicant has relied upon judgment passed by the hon'ble M.P. High Court in case titled Mazhar Khan Vs. State of M.P. & Ors. dated 24.07.2023 (A-7) wherein it has been held that even in the case of termination of a contractual employee, the termination order cannot be passed without conducting regular inquiry and affording opportunity of hearing in case the termination order amounts to stigmatic in nature. The applicant has also relied upon judgment of the hon'ble High Court of Orissa in case titled Bichitrananda Barik Vs. State of Odisha & Ors. dated 21.02.2023 (A-8).

This Tribunal has considered the matter. In the short reply it has been specifically submitted by the respondents that there is gross misconduct of the applicant, and we have noticed that no inquiry has been conducted. In view of law settled by the hon'ble M.P. High Court and the hon'ble High Court of Orissa (A-7 & A-8), at least an inquiry should have been conducted qua misconduct and opportunity of hearing should have been granted to the applicant.

Prima facie, we are of the view that the applicant has made out a case. Resultantly, the respondents are directed to continue the applicant in service till the next date.

Respondents may file detailed reply by the next date.

List this matter for further consideration on 03.05.2024.

Rashmi Saxena Sahni
Member (A)

Ramesh Singh Thakur
Member (J)

/s/