

DELHI ADMINISTRATION DOCTORS' WELFARE ASSOCIATION (REGD.)

(REGISTRATION NO. S-12851)

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Dr. DD Golani, Sr. CMO DDUH

Our Ref. No.DADWA/2017/HighCourt/TA/01

Dated: 31st May 2017

To

1. The Secretary to GOI, Ministry of Finance & Expenditure
2. The Secretary to GOI, Ministry of Health & FW
3. The Chief Secretary, Govt. of Delhi
4. The Secretary (H&FW), Govt. of Delhi
5. Director General of Health Services, Director CGHS & all Heads of Institution under the Control of MOHFW
6. Director General of Health Services Govt. of Delhi, All Regional Directors and all Heads of Health Institution under control of Delhi Government
7. Director of Health Services, Indian Railways Medical Services
8. Office of Comptroller & Auditor General of India
9. Principal Controller of Accounts & Audit
10. Heads of any concerned institution/organization that is engaging service doctors who are affected due to operation of impugned OM dated 19-8-2016 of Ministry of Finance, GOI

Sub: Stay on Recovery of Transport Allowance from Service Doctors consequent to impugned OM dated 19-8-2016 (Ref.No.21(2)/2016-E.II(B) of Ministry of Finance, Department of Expenditure, GOI

Ref: Order dated 30-5-2017 of Hon'ble High Court of Delhi in WP(C) No.4783/2017

Sir/Madam,

I am directed to forward the above order dated 30-5-2017 of Hon'ble High Court of Delhi in WP(C) No.4783/2017 filed by us with request that the same be forwarded and/or instructions issued to the concerned institutions deploying doctors drawing Transport Allowance and are affected by the above said impugned OM dated 19-8-2017 of the Ministry of Finance, Department of Expenditure so that no recoveries are made from any one in r/o Transport Allowance till the final outcome of OA No.212/2017 which is pending with the Principal Bench of Central Administrative Tribunal.

Instructions may kindly be issued to all concerned institutions also including the Directorates of Audit, CAG etc. so that no service doctor is inconvenienced due to recoveries of Transport Allowance being drawn by them at rates approved by the 6th Pay Commission since 2006.

With warm regards,

Yours truly,

-Sd-
(Dr. Vijay Rai)
Secretary

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IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P.(C) 4783/2017 and CM No. 20723/2017
DELHI ADMINISTRATION DOCTORS WELFARE ASSOCIATION
THROUGH ITS TREASURER DR B K DEY AND ORS

..... Petitioner

Through: Mr Sagar Saxena, Adv.

versus

UNION OF INDIA & ORS

..... Respondent

Through: Mr Amit Mahajan and Mr M. Dogra, Adv for
respondents 1 to 3
Mr Sanjoy Ghose and Mr Rhishabh Jetley, Adv for
GNCTD for respondent Nos.4 to 7

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

30.05.2017

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CM APPL. 20724/2017 (exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 4783/2017

Issue notice. Mr Amit Mahajan, Advocate accepts notice on behalf of respondent Nos.1 to 3 and Mr Sanjoy Ghose, Advocate accepts notice on behalf of respondent Nos. 4 to 7.

The petitioners have preferred the present writ petition to assail the order dated 08.02.2017 passed by the Central Administrative Tribunal ("the Tribunal"), passed in O.A./100/212/2017. The Tribunal by the impugned order has refused to grant interim relief to the petitioners in their Original Application. The impugned order reads as follow:-

"Heard both sides on the point of interim relief and we do not find any merit at this stage to grant interim relief. Hence, for filing reply, list the matter before the Principal Registrar's Court for

completion of pleadings on 21.04.2017 "

The petitioners had preferred the aforesaid Original Application to assail the decision taken by the Government to withdraw the transport allowance which they have been availing for the last about eight years. The withdrawal of the said transport allowance was premised on an earlier order of the Tribunal passed in Original Application No.4062/2013 which decision was held by this Court in W.P.(C) No. 3445/2014, decided on 03.09.2014.

The petitioners by way of interim relief sought stay of operation of the letters/orders dated 19.08.2016, 09.09.2016 and 05.01.2017, whereby the transport allowance was sought to be withdrawn. The Tribunal was justified in not staying the operation of the aforesaid letters during pendency of the Original Application as, to do so, would tantamount to granting the final relief in the Original Application at the interim stage. However, the petitioners also sought a direction against the respondents not to initiate recovery proceedings to recover the amount paid towards transport allowance, in the past. Learned counsel for the petitioners submits that the petitioners are pressing for only the said relief during pendency of the Original Application. Learned counsel for the respondents do not, and cannot, justifiably oppose the grant of the said interim relief. Since the issue is still pending before the Tribunal, the recovery at this stage would not be justified.

Accordingly, we dispose of the writ petition by directing that the recovery of the amounts already disbursed to the petitioners towards the transport allowance shall remain stayed, till the pendency of the Original Application.

The petition stands disposed of in above terms. *Dasti*



MAY 30, 2017/bg

SD
VIPIN SANGHI,

SD
DEEPA SHARMA

