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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO.1815/2004

This the 27th day of January, 2005.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Dr. V.P.Varshney,
Professor, Department of Physiology,
Maulana Azad Medical College,
Bahadurshah Zafar Marg,
New Delhi-110002.

... Applicant

(By Shri Rakesh Dhingra, Advocate)

versus

1. Union of India through
Secretary, Ministry of Health & Family Welfare,
Department of Health,
Nirman Bhawan, New Delhi.
2. Maulana Azad Medical College,
Bahadurshah Zafar Marg, New Delhi
through its Dean.
3. Dr. (Mrs.) Rashmi Babbar,
Professor, Department of Physiology,
Bahadurshah Zafar Marg,
New Delhi-110002.
4. Dr. B.K.Dhaon,
Maulana Azad Medical College,
Bahadurshah Zafar Marg,
New Delhi.

... Respondents

(By Shri Rishi Prakash, Advocate)

ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A) :

Applicant has challenged Annexure-A dated 6.5.2004 whereby he has been warned to be careful in future in his official dealings and maintain the decorum expected from an officer of his rank.

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2. The learned counsel of applicant stated that the impugned memorandum has been issued by the Dean, which is an equivalent post of Professor. *Applicant is holding Professor's Post. lb* Such a memorandum could have been issued by applicant's disciplinary authority alone, i.e., Secretary to the Government of India, respondent No.1. The learned counsel further pointed out that Annexure-A had been preceded by a memorandum dated 24.2.2004 whereby applicant's explanation had been called for non-submission of "marks of Completion Test for Endocrine System for M.B.B.S. students" held on 10.1.2004, and for writing on attendance register, "Nothing substantial is discussed in the departmental meetings" when he had not attended the meetings. The learned counsel stated that applicant had not been served any memorandum dated 24.2.2004 and as such the question of issuing any warning to the applicant should not have arisen at all. The learned counsel further stated that such a memorandum would adversely affect the career prospects of the applicant.

3. On the other hand, the learned counsel of respondents stated that memorandum dated 24.2.2004 had been issued to applicant. Entries in the peon book produced at the time of hearing of the case indicated that applicant had refused to receive the related memorandum. He further stated that respondent No.3 being the head of the department is within her rights to call for explanation of applicant. He pointed out that as the impugned memorandum did not involve initiation of any disciplinary proceedings against applicant, it was not necessary to refer the case to the disciplinary authority. He further stated that all the faculty members including the head of the department mark their attendance as per rules and established official practice and procedure, and as such, applicant could not be an exception to the procedure. The learned counsel supplemented that the impugned memorandum is a mere warning which is not recordable in the ACRs.

lb 4. We have considered the rival contentions.

5. We find that the impugned memorandum is merely a warning, which has been admitted to be non-recordable by the respondents. Obviously, such a warning shall not have any adverse effect on the career prospects of applicant. Entry dated 24.2.2004 in the peon book indicates that applicant had refused to accept the memorandum dated 24.2.2004.

6. In view of Annexure-H memorandum dated 28.5.2004, respondent No.1 is seized of the matter, representation dated 17.5.2004 of applicant having been forwarded to him for consideration and appropriate action.

7. On consideration of the contentions raised before us as also on perusal of the material before us, it is held that Annexure-A dated 6.5.2004 is merely a non-recordable warning. It is directed that it shall not have any adverse effect on the career prospects of applicant. Respondent No.1 has yet to take a final view on applicant's representation dated 17.5.2004 as established by Annexure-H dated 28.5.2004. Respondent No.1 is directed to take a final decision in the matter and communicate his decision to applicant within a period of two months from the date of communication of these orders.

8. Accordingly, this OA is disposed of with the observations/directions described above.

S. Raju
(Shanker Raju)
Member (J)

V. K. Majotra
(V. K. Majotra)
Vice-Chairman (A)

27.1.05

/as/