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Central Administrative Tribunal, Principal Bench, New Delhi

O.A.No.1907/2004

New Delhi, this the 16th day of December, 2004

Hon'ble Mr.Justice V.S. Aggarwal, Chairman  
Hon'ble Mr.S.K. Malhotra, Member(A)

Mrs.Pancy Chauhan,  
W/o Shri V.K. Chauhan,  
Aged about 51 years,  
R/o H.No.132, Street No.6,  
Raj Nagar, Part II, Palam Colony,  
New Delhi-45

....Applicant

(By Advocate: Shri T.D. Yadav)

Versus

1. Govt. of NCT of Delhi,  
Through Chief Secretary (Health),  
Delhi Secretariat, I.P. Estate,  
New Delhi-2
2. The Addl. Secretary (H&FW),  
Govt. of NCT of Delhi,  
Delhi Secretariat, I.P. Estate,  
Delhi-2
3. The Medical Superintendent,  
G.B. Pant Hospital,  
Govt. of NCT of Delhi

....Respondents

(By Advocate: Shri Ajesh Luthra)

Order(Oral)

Justice V.S. Aggarwal, Chairman

Applicant Mrs. Pancy Chauhan was appointed as a Staff Nurse on 1.3.1975. On 17.11.1990, she was promoted as a Nursing Sister.

*Ms Ag*

Sometime in 1999, a memo pertaining to certain alleged dereliction of duty had been served on her. The applicant by virtue of the present application seeks quashing of the order of 3.1.2004 and to grant her 2<sup>nd</sup> financial upgradation under Assured Career Progression Scheme (for short 'ACP Scheme') from the date her colleagues have been awarded the same.

2. The impugned order dated 3.1.2004 reads:

"Sub:- Forwarding of relevant document for grant of benefit under ACP Scheme to Ms. Pancy Chauhan, Nursing Sister.

Sir,

It is to inform you that a vigilance case in connection with purchase of sponge stone is pending against her.

Sd/-  
ADMINISTRATIVE OFFICER"

3. In the reply that has been filed, it has been pleaded that a Committee had been constituted to examine the excess purchase of sponge stone in the hospital. The committee was headed by the Head of the Department of Cardiology which had conducted the preliminary enquiry and found that many officers as well as officials including the applicant were involved in alleged purchase of sponge stone. The applicant was served with a chargesheet on 13.5.1999. The case was being handled by the Health Department. Subsequently, the chargesheet issued to the applicant had been withdrawn without

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prejudice to the action to be taken by the competent authority in common enquiry that may be held.

4. We have heard the parties counsel and have seen the relevant record.

5. Admittedly on this day after withdrawal of the disciplinary enquiry against the applicant, no further action has been taken. The result is that as on this date, there is no enquiry pending against her. Once there is no enquiry pending against the applicant, indeed the impugned order cannot be sustained that vigilance case is pending against her and, therefore, she cannot be considered for the benefit of the ACP Scheme.

6. Resultantly, we allow the present application and direct that the claim of the applicant for 2<sup>nd</sup> ACP Scheme benefit may be considered in accordance with law. It would be appreciated if necessary action is taken preferably within four months of the receipt of the certified copy of the present order.

*Omalo*  
(S.K. Malhotra)  
Member(A)

/dkm/

*VS Ag*  
(V.S. Aggarwal)  
Chairman