

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad, this the 23rd day of September, 2021

Civil Misc. Contempt Petition No.330/00067/2018
in
Original Application No. 330/00473/2011

Hon'ble Mr. Tarun Shridhar, Member (Administrative)
Hon'ble Ms. Pratima K Gupta, Member (Judicial)

Ramagyan, S/o Ramdauar, R/o 7-B, Railway dairy Colony, District - Gorakhpur.

...Petitioner

By Advocate : Shri Anil Kumar

V E R S U S

1. Dr. ManMan Nath, Senior Divisional Medical Officer (Administration) (Disciplinary Authority), L.N.M. Hospital, North Eastern Railway, Gorakhpur.
2. Dr. Sanjay Srivastava, Chief Ortho Surgeon/Admin, O/o Lalit Narayan Mishra, Railway Hospital, N.E. Railway, Gorakhpur.

...Respondents

By Advocate : Shri L.M. Singh

O R D E R

By Hon'ble Mr. Tarun Shridhar, Member (Administrative) :

Shri Anil Kumar, learned counsel for the petitioner and Shri L.M. Singh, learned counsel for the respondents are present.

2. This contempt petition has been filed for non compliance of the order dated 09.11.2017 passed in OA No.473 of 2011. The operative portion of the order, reads as under :-

“8. We have perused the impugned disciplinary authority order dated 17.06.2010 (Annexure A-1) as well as the reply submitted by the applicant to the disagreement note issued by the disciplinary authority. We find that the disciplinary authority has not considered any of the averments raised by the applicant in his reply submitted to the said disagreement note issued by the disciplinary authority as the order of the disciplinary authority must be on the basis of material on record. Likewise, we also perused the impugned order dated 2.2.2011 passed by the appellate authority as well as the appeal preferred by the applicant. We again find that the appellate authority has also not applied its mind while passing the said impugned order as the appellate authority simply rejected the appeal of the applicant by affirming the order of the disciplinary authority as the appellate authority is required to consider whether the findings are justified and/or whether the penalty is excessive or inadequate and further the said authority may pass an order confirming, enhancing, reducing or setting aside the penalty or remitting the case to the authority which imposed the penalty or to any other authority with such directions as it deems fit in the circumstances of the case. However, no such kind of findings/reasoning has been recorded by the appellate authority.

9. In view of the above facts and circumstances of the case, the present OA is allowed to the extent that the impugned orders dated 17.06.2010 and 2.2.2011 passed by the disciplinary authority as well as appellate authority are quashed and the matter is remitted for fresh disposal to the Disciplinary Authority. The Disciplinary Authority shall consider the detailed representation submitted by the applicant to the disagreement note issued by the disciplinary authority and also consider the detailed report of the Enquiry Officer and the records placed before him in its proper perspective and decide the matter afresh on merits. The decision should be completed within a period of two months from the date of receipt of certified copy of this order.”

3. Learned counsel for the petitioner states that while complying with the said direction, the respondents have passed an order afresh in a mechanical manner without taking into consideration the applicant's representation, specifically on the issue of disagreement note issued by the Disciplinary Authority. He also seeks support from an order of the Hon'ble Apex Court in petition No.248/2007.

However, on perusal of the same, we find that the case related to matter of fixation of seniority and as such does not have any direct bearing upon the present case.

4. Learned counsel for the respondents on the other hand, draws our attention towards the affidavit of compliance which has been submitted as long back as 12.07.2018 and states that the directions given by the Tribunal in the aforesaid OA have been fully complied with in letter and spirit. The Order passed by Chief Ortho Surgeon/Admin - Lalit Narayan Mishra, Railway Hospital, N.E. Railway, Gorakhpur is on record by which the directions of the Tribunal were disposed of.

5. We find that this order is a reasoned and speaking order. It may not make a specific mention of the disagreement note of the applicant but categorically states that he has gone through the record and examined the facts and circumstances of the case which he has also painstakingly elaborated in the said order.

6. In view of the above, we do not find any infirmity in the order and are satisfied that direction of this Tribunal has been fully complied with. Accordingly, the contempt proceedings are closed. Notices are discharged.

7. All the MAs pending in this contempt petition are disposed of as having become infructuous.

(Pratima K Gupta)
Member(Judicial)

(Tarun Shridhar)
Member(Administrative)

RKM/