

**Central Administrative Tribunal
Chennai Bench, Chennai**

O.A. No.993/2013

Friday, this the 28th day of May, 2021



(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Tarun Shridhar, Member (A)

Dr. M BalaSoudarssanane
Residing at No.42, 1st Lane
Thirumudy Nagar
Puducherry 605001

..Applicant

(Mr.U. Karunakaran, Advocate)

VERSUS

1. Union of India
Jawaharlal Institute of Post Graduate Medical Education
And Research
Represented by its President
Puducherry 605 006
2. Institute Body of JIPMER (Appellate Authority)
Represented by Director
Jawaharlal Institute of Post Graduate Medical Education
And Research
Puducherry 605 006
3. Governing Body of JIPER (Disciplinary Authority)
Represented by Director
Jawaharlal Institute of Post Graduate Medical Education
And Research
Puducherry 605 006

..Respondents

(Mr.MT Arunan and Mr. M A Arunesh, Advocates)

ORDER (ORAL)**Mr. Justice L. Narasimha Reddy:**

The applicant retired from Army and thereafter, he joined the service of Jawaharlal Institute of Post Graduate Medical Education & Research (JIPMER) on 12.06.1997, as Liaison Officer. He earned promotions to the level of Professor and functioned as Head of Department (HoD). It is stated that the applicant filed several OAs before the Tribunal, claiming different reliefs, from time to time.

2. It is stated that the applicant made several representations and complaints; and with a view to get them inquired, the administration appointed a Committee headed by one Mr. Mathan, vide order dated 29.04.2010. The applicant contends that the Committee submitted its report on 16.08.2010, virtually recording findings against him, but without giving him any opportunity.

3. The applicant was issued a charge memo by the administration on 08.10.2010 with certain allegations. Challenging the same, the applicant filed O.A.No.1265/2010 before the Tribunal. That O.A. was dismissed on 08.04.2011. Thereupon, he filed W.P. Nos. 9615-9616 of 2011 before the Hon'ble High Court of Madras. The Writ Petitions

were dismissed on 29.07.2011. An SLP filed before the Hon'ble Supreme Court was also dismissed on 09.07.2012.



4. The applicant did not submit his explanation, nor did he participate in the proceedings. The Inquiry Officer submitted his report on 25.02.2012, holding that the charges leveled against the applicant are proved. A copy thereof was furnished to the applicant. However, he did not submit any representation *vis-à-vis* inquiry report. The Disciplinary Authority (DA) passed an order dated 01.06.2012, imposing the punishment of compulsory retirement upon the applicant. An appeal presented against it was rejected by the appellate authority on 01.06.2013. This O.A. is filed challenging the order passed by the DA, as confirmed by the appellate authority.

5. The applicant contends that ever since he joined the organization, he was subjected to discrimination and harassment; and he has knocked the doors of the Tribunal repeatedly. He contends that the very purpose of appointing a Committee in the year 2010 was to address the grievances ventilated by him, but the Committee has served a cross and reverse purpose, by recording findings against him, that too, without giving any opportunity to him. He further contends that the issuance of the charge memo was without any basis and

accordingly, he pursued the remedies before the Tribunal, Hon'ble High Court of Madras and Hon'ble Supreme Court.



6. The applicant contends that the disciplinary proceedings were conducted in violation of the principles of natural justice and without giving any opportunity of being heard. It is also his case that the IO has acted with bias and the DA also did not appreciate the matter, in right perspective. It is also stated that the appellate authority did not examine the matter independently and it was rejected in a mechanical manner.

7. The respondents filed a detailed reply. It is stated that once the applicant did not choose to participate in the proceedings, the IO left with no other alternative except to submit an *ex parte* report. They further submit that a copy of the report of the IO was furnished to the applicant, but he did not choose to offer any comments.

8. The respondents further contend that the DA has taken into account, all the relevant factors as well as the report of the IO and passed the impugned order of punishment. They contend that the punishment imposed upon the applicant is proportionate to the serious act of misconduct held proved against him. They submit that the applicant has already crossed the age of superannuation.



9. We heard Mr. U. Karunakaran, learned counsel for applicant and Mr. MTArunan, learned counsel assisted by Mr. M A Arunesh, learned counsel for the respondents, in detail.

10. The applicant made extensive reference to various developments that have taken place ever since he joined the service. We are of the view that it is not necessary to refer the same in detail. This much can be that the relationship of the applicant with the respondent, a highly reputed Institution at National level, was far from peaceful. Quite good number of OAs were filed by him and corresponding number of orders came to be passed.

11. He was issued a charge memo dated 08.10.2010, wherein the following charges were levelled:

“i) Intentionally and systematically resorted to various actions which have virtually paralyzed the department.

ii) He made baseless allegations against the Dean and the Director and deliberately maligned and tarnished their reputation, thereby adversely affecting the functioning of the JIPMER and these acts were unbecoming of a Government servant.

iii) He misused his position as HOD and pressurized junior faculty members of his department to give depositions in a criminal case instituted by him against two faculty members of the Department of Pharmacology and when they refused to do so, he harassed and victimized them.

iv) He wrote letters threatening to go to the media with his demands if they were not met by the Institute.”



12. Even according to the applicant, the documents running into 240 pages are appended to the charge memo. For one reason or the other, he did not choose to submit any explanation after he received the charge memo. He filed O.A. No.1265/2010 before the Tribunal, challenging the charge memo. He was not successful therein. He got the same result when he approached the Hon'ble High Court of Madras, and Hon'ble Supreme Court in his challenge to the charge memo.

13. This is not a case where the inquiry proceedings were stalled by any order of the Tribunal and the applicant was not required to participate in the proceedings. The reason, on account of which the applicant did not participate in the inquiry, is stated by him in paragraph 4.9 of the O.A. It reads as under :

“4.9 The applicant states that during the pendency of the proceedings before the Supreme Court the enquiry officer proceeded with the enquiry. The applicant was under the bonafide impression that it was not proper to participate in the enquiry when the matter was sub-judice before the Supreme Court. He requested for the postponement of the enquiry and since the enquiry officer proceeded with the same, he did not participate. Further he also requested for several documents from the enquiry officer by letter dated 06.10.11 in order to prove his innocence (Annexure –A.20). Though any of the letters which he wanted to rely on were in his possession he was under the bonafide impression that unless these documents were furnished to him officially by the enquiry officer in the course of the proceedings the same would not be valid. Since the enquiry officer did not furnish any of the documents sought by him and since he was under the bonafide belief that he could



not mark the documents in his possession he could not participate in the enquiry as he felt that in the absence of the documents, he would not be able to effectively represent his case. Further some documents were not in his possession, and were either with the institute or in the applicant's sealed chambers. It is pertinent to state that the applicant's chambers were sealed by respondents on 08.10.10 evening in the absence of the applicant. Similarly the room was opened in September 2012 in the absence of the applicant, despite his representations. No list of stock inventory was provided to applicant on both occasions"

14. One just cannot understand as to how an officer of the rank of Professor assumed so many things in his favour and decided not to participate in the inquiry. He has not participated in the inquiry, despite repeated notices. The IO was left with no other alternative, except to proceed with the inquiry and submit his report. The report was submitted on 25.02.2012. In all fairness to the applicant, the respondents furnished a copy of the report.

15. The very purpose of furnishing of report of the IO is to enable the charged employee to put forward his contentions *vis-à-vis* findings recorded by the IO. The applicant did not avail this opportunity also. In clear terms, in paragraph 4.11 of the O.A., he stated that he did not submit the remarks or explanation to the report of the IO because the SLP was pending. Mere pendency of an SLP is not at all a ground or basis for not submitting the explanation. In fact, he has chosen to miss the opportunity. The inevitable consequence is that the DA examined the report,

discussed the matter and passed the impugned order of punishment.



16. Assuming that the applicant has valid explanation to the charges and there existed some defects or *lacunae* in the report of the inquiry officer, it is the applicant, who has to blame himself for the consequences, that lead to the imposition of the punishment. It was almost an act of defiance or negligence or as a measure of challenge, that he did not care to participate in the disciplinary proceedings. In a way, he appears to have thrown a challenge to the entire administration, despite his OA, WP and SLP having been rejected. Such an approach cannot at all be countenanced in an organization, like JIPMER. No one can help the one, who does not help himself.

17. We do not find any merit in the O.A. It is accordingly dismissed. There shall be no order as to costs.

(TarunShridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 28, 2021
/sunil/rk/ankit/sd/