

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAMMU BENCH, JAMMU**

Hearing through video conferencing

O.A. No. 61/577/2021

This the 06th day of April, 2021

HON'BLE MR. RAKESH SAGAR JAIN, MEMBER (J)
HON'BLE MR. TARUN SHRIDHAR, MEMBER (A)

Dr. Bodh Raj Kundal, Age 56 years, S/o Late Sh. Munshi Ram, R/o H. No. 98,
W. No. 13, Resham Ghar Colony, Tehsil & District Jammu.

.....Applicant

(Advocate:- Mr. Gagan Basotra, Sr. Advocate assisted by Ms. Navdeep Kaur)

Versus

1. Union Territory of J&K through Financial Commissioner, Health and Medical Education Department, Civil Secretariat, Jammu-180001.
2. Principal Govt. Medical College Jammu-180001.

.....Respondents

(Advocate: Mr. Amit Gupta, learned A.A.G.)

ORDER

ORAL

(Delivered by Hon'ble Mr. Rakesh Sagar Jain, Member-J)

Learned counsel for the applicant submits that the applicant was appointed as Lecturer vide order dated 01.04.2013 in the department of Neurology in Super Speciality Hospital, Govt. Medical College, Jammu. The applicant being the sole member of the faculty of Department of Neurology filed SWP No. 1497 of 2014 seeking directions to the respondents for delegation of administrative powers to the applicant. The Hon'ble High Court vide order dated 16.06.2014 directed the respondents to accord consideration to the claim of the applicant in the light of the averments made in the said petition and documents appended thereto. The respondents in pursuance of the directions of the Hon'ble High Court vide order dated 04.07.2014 appointed the applicant as a coordinator/acting Head of the Department of Neurology Super Speciality Hospital Govt. Medical College, Jammu. The official respondents again divested the applicant of his charge as acting Head/Coordinator of the Department of the Neurology vide an order No. GMC/16/PS/order/1232 dated 28.04.2016. The respondents vide order dated 12.01.2017





promoted the applicant on in-charge basis to the post of Assistant Professor in the Department of Neurology. A FIR No. 114/2017 under Section 354 of RPC was registered against the applicant with Police Station Bakshi Nagar, Jammu. A petition under Section 561-A of J&K Cr.P.C. in petition 561-A No. 591/2017 was filed by the applicant before the Hon'ble High Court and the Hon'ble High Court vide order dated 06.09.2017 directed the concerned Police Station not to file the charge sheet till further orders. The applicant after lodging of the aforesaid FIR was placed under suspension pending departmental inquiry vide Govt. Order No. 476-HME of 2017 dated 05.09.2017. The applicant filed Writ Petition seeking to challenge the Govt. Order No. 476 HME of 2017 dated 05.09.2017 whereby pending inquiry the applicant has been placed under suspension. The Hon'ble High Court allowed the Writ Petition and directed the respondents to complete the departmental inquiry within two months failing which the applicant was to be reinstated forthwith. However, the respondents did not complete the departmental inquiry within two months nor implemented the judgement dated 07.09.2018 passed in SWP No. 1796 of 2018 and openly violated the said judgement by issuing memorandum/Charge Sheet vide no. ME-Legal GAJ/09/2018-2020 dated 27.11.2019 along with articles of charge thereby initiating departmental enquiry. The applicant was constrained to challenge the initiation of departmental inquiry being in violation of judgement dated 07.09.2018 passed in SWP No. 1796 of 2018 and amongst other grounds filed WP (C) No. 05/2020 before the Hon'ble High Court wherein the Hon'ble Court was pleased to direct that in the meanwhile inquiry proceedings may proceed but no final order shall be passed.

2. The respondents vide notification no. MEGAZ/12/021 dated 05.03.2021 have issued the tentative seniority list of faculty members of various discipline in the Govt. Medical College Jammu evidencing the promotion of other faculty members who are junior to the applicant but no promotion has been accorded to the applicant. The applicant is aggrieved of the fact that in view of the amended Article 110 (A) C.S.R. vide SRO 153 dated 07.07.1995, the respondents have not resorted to sealed cover procedure for effecting promotion to the applicant to the post of Associate Professor nor have promoted the applicant in the higher grade on an officiating capacity due to the pendency of departmental proceedings, hence, the applicant filed the instant O.A.



3. Learned counsel for the applicant submits that the applicant would be satisfied if a direction is issued to the respondents to adopt sealed cover procedure for promoting the applicant to the post of Associate Professor in view of Article 110 (A) CSR vide SRO 153 dated 07.07.1995.

4. We have heard Mr. Gagan Basota, Sr Advocate assisted by Ms. Navdeep Kaur, learned counsel for the applicant and Mr. Amit Gupta, learned A.A.G. for the respondents and perused the record.

5. Looking to the facts and circumstances of the case, we dispose of the O.A. with direction to the respondents to consider adopting sealed cover procedure for promoting the applicant to the post of Associate Professor in view of Article 110 (A) CSR vide SRO 153 dated 07.07.1995.

6. It is made clear that we have not entered into the merits of the case.

7. There shall be no order as to cost.

(TARUN SHRIDHAR)
MEMBER (A)

Arun

(RAKESH SAGAR JAIN)
MEMBER (J)