



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 363/2021

This the 11th day of May, 2021

(Through Video Conferencing)

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

Dr. V. C. Aggarwal,
Aged about 59 years,
S/o Sh. M.L. Aggarwal,
R/o A-2/181, Safdarjang Enclave,
New Delhi – 110029.
(Professor & Senior CMO, Department of Surgery, VMMC &
Safdarjung Hospital, Group A)

... Applicant

(By Advocate : Mr. Amit Anand)

Versus

Union of India through,

1. Through the Secretary,
M/o Health & Family Welfare,
Nirman Bhawan, New Delhi – 110011.
2. The Director General of Health Services,
Department of Health,
M/o Health & Family welfare,



- Nirman Bhawan, New Delhi – 110011.
3. The Medical Superintendent,
VMMC & Safdurjung Hospital,
New Delhi – 110029.
 4. Dr. Shivani B. Paruthi,
Department of Surgery,
VMMC & Safdurjung Hospital,
New Delhi – 110029.
 5. Dr. Rajkumar Chejara,
Department of Surgery,
VMMC & Safdurjung Hospital,
New Delhi – 110029.

... Respondents

(By Advocate : Mr. Manish Kumar and Mr. Devesh Ratan)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman :

The applicant was appointed as General Duty Medical Officer (GDMO) in the Central Government Health Service in the year 1988 and was posted in the Safdarjung Hospital. The respondent Nos. 4 and 5 were appointed as Specialists in the year, 1999 and 2005 respectively in the same hospital. The applicant was extended the benefit of NFSG in the year 2002, SAG on 29.10.2008 and was appointed as Professor on 06.09.2016. In the context of appointment of Head of Unit (HOU) a Committee was constituted by the administration and at its meeting held on 29.06.2020, the Committee recommended the name of the applicant. Consequential order was also issued on 01.07.2020. The applicant states that ever since then he started functioning as HOU.

2. The Director General (Administration), the 2nd respondent issued an office order dated 24.08.2020 withdrawing the order dated 29.06.2020 and appointing the 4th respondent as the HOU in the department of Surgery in place of the applicant. The OA is filed challenging the order dated 24.08.2020.

3. The applicant contends that he was appointed as HOU in accordance with the relevant provisions and after verifying the seniority and there was absolutely no basis for the



respondents to withdraw the order appointing him as HOU.

He contends that neither a notice was issued to him nor any reasons were indicated in the order dated 24.08.2020 before appointing Respondent No. 4 as HOU in his place.

4. Separate counter affidavits are filed on behalf of respondent Nos. 2 and 3 on the one hand and respondent Nos. 4 and 5 on the other hand. According to them, the applicant is from GDMO category and the practice is that the GDMOs are not appointed as HOU. They contend that being Specialists, respondent No. 4 and 5 are better suited for the assignment.

5. Today we heard Mr. Amit Anand, learned counsel for the applicant and Mr. Manish Kumar and Mr. Devesh Ratan, counsel for the respondents.

6. The issue in this OA is in a narrow compass. The applicant was appointed as GDMO as 1988 and became Professor in the year 2016. Through an order dated 29.06.2020, he was appointed as HOU on the recommendation of the Committee. The order reads as under:-

“ Dr. V. C. Aggarwal, Sr. CMO (SAG) & Professor, Deptt. Of Surgery is hereby declared as head of Unit that falls vacant consequent to retirement of Dr. Vimal Bhandari, Consultant & Professor, Deptt. of Surgery w.e.f. 01.07.2020. This decision has been arrived at on the recommendations of the Committee.

This is for strict compliance.”



7. The record is not clear as to what was the practice in the context of appointment of HOU on previous occasions, or the provision that govern the issue. Within the period of two months, the 3rd respondents issued an order dated 24.08.2020, which reads as under:-

“ In pursuance of Dte. G. HS. Letter No. A.11019/03/2020-CHS-IV dt. 20.8.2020 and in supersession of this office order No. MS/SJH/Office Order/2020 dt. 29.6.2020 Dr. Shivani B. Paruthy, Consultant Surgery (CGHS) is hereby appointed as Head of Unit in the department of surgery in place of Dr. V. C. Aggarwal, Sr. CMO (HAG).
This issues with the approval of Medical Superintendent.”

8. On the one hand the order of appointment of the applicant was withdrawn and on the other hand the 4th respondent was appointed as HOU.

9. It is not uncommon that mistakes creep in to the orders passed by the administration now and then. Whenever such mistakes are noticed, the proper course is to put the affected person on notice and then to take the corrective steps, duly indicating reasons. It is not the case of the respondents that the applicant has made any misrepresentation or that any provision of law was violated in the context of appointing him as HOU. They have straightway issued the impugned order without issuing notice, much less indicating any reasons. It is a typical case of violation of principles of natural justice and the administration taking a decision without assigning any



reasons whatever. Both are prominent requirements in the field of Administrative law.

10. We allow the OA and set aside the impugned order. However, we leave it open to the respondent No. 2 and 3 to issue notice to the applicant indicating the reasons as to why his appointment as HOU is legally or factually incorrect and then to pass a reasoned order, duly taking into account, the explanation which the applicant may offer. The applicant shall be entitled to function as HOU till the exercise indicated above is completed. There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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