

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
KOLKATA



OA. 350/1406/2021

Date of order: 14.09.2021

Present

:Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Vivekanand Kumar son of Late Vishnu Deu Prasad working in the post of Pharmacist in SCMM Unit Karimpore temporarily residing at Village Anandapally Near Jyatirmoy Primary School, Post Office and Police Station - Karimpore, District Nadia, Pin 741152 having the permanent resident at Mahatma Gandhi Nagar (Near Gandhi High School). Ward No. 23, Gate No.2, P.O. - Jhumri Telaiya, P.S. Telaiya, District Koderma (Jharkhand), Pin Code - 825409.

-Versus-

1. Union of India service through the Secretary, to the Govt. of India, Ministry of Labour and Employment, Labour Welfare Organization Shram Shakti Bhavan, Rafi Marg, New Delhi - 110001.
2. The Under Secretary, to the Govt. of India, W.I. Section, Ministry of Labour and Employment Jaisalmer House, Mansingh Road, New Delhi - 110001
3. The Welfare Commissioner, Head of Department and Disciplinary Authority, Welfare Organization, Kolkata Region having his office at 5th Floor, 2nd M.S.O. Building, Nizam Palace, 234/4, A.J.C. Bose Road, Kolkata -700020.
4. The Medical Officer (I.C.), SCMM Unit Karimpore, at Karimpore, Post Office Karimpore, District -Nadia, Pin-741152, West Bengal.
5. Dr. Jyotimoy Sarma Nodal Medical Officer, SCMM Unit Karimpur, P.O.- Karimpur, District-Nadia, Pin 741152 erstwhile in charge of Karimpur dispensary presently posted at Medical Officer Labour Welfare Organization Govt. of India Beedi Workers Welfare



Dispensary Barasat, District 24 Parganas (North), Pin
700124, West Bengal..

.....Respondents

For the Applicant : Mr. B. Bhushan, Counsel

For the Respondents : Mr. R. R. Kumar, Counsel

ORDER (Oral)

Per Ms. Bidisha Banerjee, JM:

Heard Id. Counsel for both the parties.

2. This application has been filed to seek the following reliefs:

"8(a) Direction upon the respondent no. 3 to withdraw the memorandum of charge sheet dated 16.08.2021 issued under Rule 14 of the CCS (CCA) Rules, 1965 in light of subsequent order of suspension dated 23.08.2021 whereby it has declared that the disciplinary proceedings is contemplated and enquiry is pending.

(b) Direction upon the respondent no.3 to withdraw the suspension of the order dated 23.08.2021 till the outcome of pending enquiry.

(c) Direction upon the respondent no.3 to initiate a physical enquiry to ascertain the facts stated in the reply of the show cause by the applicant.

(d) To direction upon the respondent no.3 to furnish a report of the physical enquiry before this Hon'ble Tribunal and also to provide a sanction strength of staff posted at dispensary at Karimpore.

(e) Direction upon the respondents to provide the report of enquiry pursuant to office order no.740 of 2017-18 dated 06.10.2017 pertaining to irregularity in the earlier suspension.

(f) Direction upon the respondent no. 3 to regularised the earlier suspension period from 27.11.2014 to 17.08.2015 and release the salary for that period with an interest of 12% per annum.

(g) Production of the records in the instant case.

(h) Costs

(i) Any other order or orders as this Hon'ble Tribunal may deems fit & proper."



3. Ld. Counsel for applicant alleges that the charge sheet was issued on 16.08.2021 while the suspension order was issued subsequent to it, on 23.08.2021 in contemplation of proceedings.

Ld. Counsel for applicant also alleges that since on one hand a disciplinary proceeding is said to be contemplated while on the other hand the enquiry is pending, both the disciplinary proceeding and the suspension order should be stayed.

4. Ld. Counsel for applicant would also seek liberty to file reply to the charge sheet. Therefore, applicant is granted liberty to file reply to the charge sheet within 15 days from the date of receipt of copy of this order which if preferred shall be appropriately considered by the Disciplinary Authority before proceedings with the inquiry.

5. Ld. Counsel also submits that the prayer for regularization of the earlier suspension period is yet to be disposed of. He drew our attention to the communication dated 04/06.10.2017, vide which a committee has been constituted to resolve the modus operandi and to rectify the issue of irregularity in suspension, and revocation of suspension of the applicant and that committee will examine pros and cons of the issue and submit its report within a fortnight.

6. It is a fact that no report has been submitted till date. Therefore, we direct the authorities to consider the representation of the applicant as annexed at Annexure A-5 and A-6 of the OA and pass an appropriate order within two months. We would also direct the authorities to communicate the report in terms of Annexure A-4 of the OA, within a period of 4 weeks from the date of receipt of a copy of this order.

7. It is made clear that we have not entered into the merits of this matter.



8. Thus, the OA would stand disposed of. No costs.

(Dr. Nandita Chatterjee)
Member (A)

(Bidiṣha Banerjee)
Member (J)

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