

Central Administrative Tribunal
Jodhpur Bench, Jodhpur

Date of order : 11.4.2001

O.A.NO. 29/2001

Dr. Brij Kishore Tyagi S/o Late S.N.S.Tyagi, aged about 49 years, R/o D-4, Saraswatinagar, Jodhpur 342005, at present employed on the post of Dy. Director and Officer Incharge, in the office of Desert Medicine Research Center (ICMR), Post Box No. 122, New Pali Road, Jodhpur.

..... Applicant

versus

1. Union of India through the Secretary to Govt. of India, Ministry of Health, New Delhi.
2. Indian Council of Medical Research, Post Box No. 4911, Ansari Nagar, New Delhi.
3. Director General, Indian Council of Medical Research, Post Box No. 4911, Ansari Nagar, New Delhi.
4. Dr. H.N.Saiyed, Director, National Institute of Occupational Health, Meghania Nagar, Ahmedabad-380 016.

.... Respondents.

Mr. J.K.Kaushik, Counsel for the applicant.

Mr. Vinit Mathur, Counsel for the respondents.

CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

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PER HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER :

The applicant had filed this O.A. challenging the impugned order dated 13.2.2001 (Annex.A/1), with the prayer that the said order be declared illegal and be quashed with consequential benefits. The applicant had also prayed for staying the operation of impugned order Annexure A-1.

2. Vide the impugned order, respondent No. 4, was appointed as Director Incharge of the Desert Medicine Research Centre (for short 'DMRC'), Jodhpur, in addition to his own duties till further orders in supersession of the previous order dated 7.12.99.

3. The applicant had challenged the said order on the ground that there is no post of Director in the Institute therefore, the respondent No. 4 could not have been appointed as Director Incharge with additional duties; that respondent No. 4 had manipulated with the competent authority in getting the said impugned order issued due to some extraneous reasons the applicant who was working as Officer Incharge of the said Centre as the senior-most Dy.Director, has been replaced by respondent No.4 which is against the principles of natural justice and without giving him any show cause notice for such action. That the said order is arbitrary, against the principles of natural justice and discriminatory and the interest of the Centre would suffer if the respondent No. 4 is allowed to manage the affairs of the said Centre as Officer-In-Charge Hence, the O.A..

4. Notice of the OA was given to the respondents

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who have filed their reply to which a rejoinder was filed by the applicant and additional reply was filed by the respondents to the rejoinder.

5. It is contended by the respondents in their reply that the applicant has no case. The respondent No. 3 was competent enough to make appointment in respect of Officer-In-Charge of the said Centre. There are no rules regulating the matter for appointment of a senior-most Scientist as Officer-In-Charge of the said Centre. It is also alleged by the respondents that the Officer-In-Charge could be appointed from amongst any senior officers as per the discretion of the respondent No. 3. The respondent No. 4 could be made Director Incharge of the Centre in addition to his own duties and no rules of business have been violated by such appointment. From the reply of the respondents, it also appears that the respondent No. 3 was not very happy with the administration run by the applicant. There are detailed allegations against his working in the reply which should not detain us here. It is also alleged by the respondents that there is no pre-planned conspiracy or extraneous considerations for appointing the respondent No. 4 as Director Incharge, as alleged by the applicant. It is contended by the respondents that it is for the higher authorities to make appointment for smooth working of the Institution and it is their sole discretion as to who should be appointed as Officer-In-Charge. The O.A. deserves to be dismissed as it bears no merit.

6. We have heard the learned counsel for the parties and have gone through the case file. Both the learned counsel for the parties had developed their arguments on the lines of their pleadings which we need not repeat in detail here.

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7. We have considered the arguments and the pleadings of the parties. We are of the opinion that it is the sole discretion of the respondent No.3 to appoint the respondent No.4 as Director Incharge and the respondent No. 4 has the discretion as Director Incharge to appoint any senior Scientist as Officer-In-Charge of the Institution. The applicant cannot claim any vested right for being appointed as Director Incharge on the ground of being senior most Scientist. From the order dated 7.12.99, it appears that the applicant was ordered to work under the over-all supervision of respondent No.4. Therefore, if in super session to this order by the respondent No.4 has now been made as Director Incharge of the Centre, where the applicant is working, no fault can be found therein. Even by the previous order the respondent No. 4 was working as Over-all supervisor concerning the affairs of the present centre and now he has been made as Director Incharge. Consequent thereto, if the applicant has been deprived of certain administrative powers no fault can be attributed to respondent No. 3 in appointing the respondent No.4, vide Annex.A/1. No case of deprivation of vested right or financial benefits has been made out by the applicant. As an Officer-In-Charge the applicant was rendering additional duties and if the additional duties have been withdrawn from him he cannot say that it is his right to perform additional duties. The applicant is basically a Scientist and has to devote his acumen for the betterment of the institution in advancement of medicines and research thereof. By so called depriving him of the powers of officer-in-charge, the applicant has in fact been provided with more time to devote to his scientific research and in fact, ~~inexcusably~~, he has been saved of un-necessary botheration of running administration by

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the impugned order which, in our opinion, is both beneficial and cogent to the applicant and the institution under the given circumstances. Therefore, the impugned order is not required to be interfered with by us. We do not find any merit in the O.A. and the same deserves to be dismissed.

8. It would be beneficial to note that after we had heard the case and kept the order reserved, a news item appeared in the Rajasthan Patrika Jodhpur Edition of dated 30.3.2001 wherefrom, we find that the respondent No.4 ~~was been~~ appointed as Director of the said DMRC and the applicant has been transferred. If the news report is correct then also the grievance of the applicant has come to an end and the alleged cause of action has become redundant. In view of this also, the present O.A. deserves to be dismissed.

9. The O.A. is, therefore, dismissed with no orders as to cost.

Gopal Singh
(GOPAL SINGH)
Adm. Member

A.K. Misra
(A.K. MISRA)
Jud 1. Member

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Part II and III destroyed
in my presence on 28.3.07
under the supervision of
Section Officer (J) as per
order dated 16.3.2007
Section Officer (Record). 2