

21

**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR**

**ORIGINAL APPLICATION NO. 108/2008**

**Date of order: 05.05.2011**

**CORAM:**

**HON'BLE DR. K.B. SURESH, JUDICIAL MEMBER  
HON'BLE MR. SUDHIR KUMAR, ADMINISTRATIVE MEMBER**

S.K. Lotan S/o Late Shri Sukhan Lal, aged about 50 years, R/o H.No. 4-Sa-19, Chopasani Housing Board, District Jodhpur, Rajasthan, at present former Section Officer, DMRC, Jodhpur.

...Applicant.

Mr. Pushpendra Singh &  
Mr. R.S. Shekhawat, counsel for applicant.

**VERSUS**

1. Union of India through the Secretary, Ministry of Health, Government of India, New Delhi.
2. Director General, Indian Council of Medical Research, Ansari Nagar, New Delhi.
3. Dr. Ramesh Chandra Sharma, Deputy Director (Sr. Grade and Officer In-charge) Desert Medicine Research Centre, New Pali Road, Jodhpur, Rajasthan.

... Respondents.

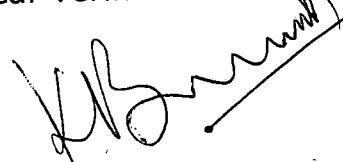
Mr. M.S. Godara, proxy counsel for  
Mr. Vinit Mathur, counsel for respondents.

**ORDER**  
**(Per Dr. K.B. Suresh, Judicial Member)**

We have heard the learned counsels for the parties in detail.

2. We find that vide Annexure A/12 office order dated 25<sup>th</sup> May, 2004, four staff members were allocated to the applicant and certain duties were also allocated to him, whereas again by Annexure A/12 office order dated 05th November, 2004, the functions had changed and only one staff member is allocated to the applicant, and logical differences is created in his functioning,

~~Mr. .....~~ even though physical verification of stores forms part of his .....



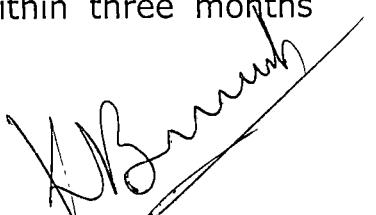
functions, as also all legal matters of the Centre. But all of the other matters are taken out of his purview, and therefore, we find from the charges produced before us vide Annexure A/1-A order dated 28.05.2007 that they do not correctly reflect and relate to the functions assigned to the applicant by the amended order. No man or employee can be held accountable for functions not allocated to him specifically. We also note that the applicant had assistance of only one staff member allocated to him for the job, which is reduced from four to one, therefore, if any, there will be some lacunae in his functioning, that would have to be cleared by issuing notice to him, requiring him to show cause as to why the lacunae occurred. We do not want at this juncture to deal upon the allegations of personal mala fides brought against the concerned senior officer, but we find that Dr. R.C. Sharma, who passed the concerned order, is only the Officer-in-Charge. He is not the Director, who could have been the Appointing Authority and consequently the Disciplinary Authority. We find from other documents produced before us that there is a Director and Shri R.C. Sharma is only the Officer-in-Charge. The Hon'ble Apex Court has held that since the applicant is a Group 'B' Officer, only the Director can be the disciplinary authority and empowered to impose penalty upon the applicant. Therefore, primarily the disciplinary proceeding is not in order in the light of the law, since the apparent Disciplinary Authority is not empowered to act as such. In addition, we find that charges levelled against the applicant are not in harmony with the functions allocated to him. Therefore, charges ought not to have been levelled at all. Sufficient opportunity ought to have been granted before even such

Sh. charges ~~is~~ <sup>were</sup> levelled, which is not seen in the case at all, as the charges are basically vague, as the prejudice which emanated from the lacunae is left to ~~our~~ <sup>our</sup> imagination. Thus there is no Sh. application of mind before issuance of charge.

3. Whereas the Appellate Authority has reduced the punishment or not is of no use, as the initial order was without jurisdiction and without adequate reason as well. But we find with regret that Appellate Authority has also not focused or attended whether the charges could have been allowed to be made even in the beginning, as none can even guess as to what Sh. prejudice <sup>may</sup> have resulted from the alleged inadequacy of the applicant. Taken in conjunction with the amended allocation of duties and the resultant reduction of staff, the issuance of Sh. charge seems to be an overkill.

4. Therefore, we find merit in the Original Application. Both the orders, passed by Disciplinary Authority as well as the Appellate Authority, are hereby quashed. The Original Application is, thus, allowed to the limited extent as stated above. But we reserve the right of the respondents to proceed with the matter in pursuance with office memorandum dated 25<sup>th</sup> November, 2004, if it is warranted. Consequences will flow with quashment of the impugned orders, and benefits thereof shall be made available to the applicant within three months next. There shall be no order as to costs.

  
**(SUDHIR KUMAR)**  
ADMINISTRATIVE MEMBER

  
**(DR. K.B. SURESH)**  
JUDICIAL MEMBER