

**ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.122/2014

New Delhi, this the 23rd day of January, 2017.

HON'BLE MR. JUSTICE PERMOD KOHLI, CHAIRMAN
HON'BLE MS. NITA CHOWDHURY, MEMBER (A)

Dr. P.Makhija
S/o Late Shri Sunder Das Makhija,
R/o DDA Multi-story Building,
Flat No.328, Sector 19 B, Dwarka
New Delhi-110075.

-Applicant

(By Advocate: Shri Shiv Kumar Pandey)

V E R S U S

1. Union of India,
Ministry of Health and Family Welfare
Department of Ayush, Ayush Bhawan,
B Block, GPO Complex,
INA, New Delhi-110023.
2. Central Council for Research in Ayurveda
and Siddha through its Director General,
Jawaharlal Nehru Bhartiya Chikitsa Evam
Homeopathy Anusandhan Bhawan,
No.61-65, Institutional Area,
Opp. 'D' Block, Janakpuri,
New Delhi-110058.

Respondents

(By Advocate: Ms. Neha Bhatnagar)

ORDER (ORAL)

By Mr. Justice Permod Kohli

While working as Research Officer, the applicant was served with charge memo dated 15.05.2007 initiating major penalty proceedings under Rule 14 CCS (CCA) Rules, 1965. On filing of representation, the disciplinary authority constituted an inquiry

(2)

against the applicant. Simultaneously, an FIR No.1/S/06-KOL dated 26.10.2006 was registered against applicant for offences punishable under Sections 120B, 410, 465 and 471 of the Indian Penal Code read with Sections 13(2) and 13(1) of the Prevention & Corruption Act, 1988. The case was registered by the Central Bureau of Investigation (CBI) and on completion of investigation, a charge-sheet was filed in the Court of Special Judge, Prevention of Corruption Act, 1988, East District at Gangtok, East Sikkim.

2. An Inquiry Committee was appointed by the disciplinary authority. The Inquiry Committee completed the enquiry and submitted its report on 19.02.2009 exonerated the applicant from the charges. The report of the Inquiry Committee was served upon the applicant vide memo dated 22.02.2010. The applicant has already responded to the same. In the meantime, on account of pendency of criminal proceedings, the disciplinary authority did not pass any order on the inquiry report. The disciplinary authority passed an order dated 10.12.2013, keeping in abeyance the departmental proceedings till the conclusion of the criminal case instituted against the applicant. This order was communicated to the applicant vide communication dated 10.12.2013. It is this order, which is subject matter of challenge in the present OA.

(3)

3. During the pendency of this OA, the applicant has been acquitted by the Court of Special Judge, Prevention of Corruption Act, 1988, East District at Gangtok, East Sikkim vide judgment dated 30.08.2016 in ST (CBI) case No.01/2013 registered against him and other accused persons.

4. When this matter was taken up on 02.12.2016, learned counsel for the respondents submitted that criminal proceedings against the applicant had been culminated in his acquittal, and sought time to seek instructions whether the competent authority intends to file any appeal against the order of the acquittal or not. Today, she has reported that her instructions are not complete. On instructions, she submits that the competent authority needs some more time to take decision in this regard. Be that as it may, the fact remains that as on date the disciplinary proceedings are pending against the applicant, though the inquiry instituted against the applicant has been completed and no charge against him is proved. The applicant also stands acquitted by the Criminal Court.

5. Under these circumstances, the disciplinary authority is under an obligation to take a decision on the inquiry report, notwithstanding the fact whether any appeal against the order of acquittal of the applicant is preferred or not.

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6. In this view of the matter, this OA is disposed of with the direction to the disciplinary authority to take final decision on the inquiry report by taking into consideration the representation of the applicant within a period of two months from the date of receipt of the order by passing a reasoned and speaking order.

No costs.

(NITA CHOWDHURY)
MEMBER (A)

(PERMOD KOHLI)
CHAIRMAN

/kdr/