

**Central Administrative Tribunal  
Principal Bench, New Delhi.**

**OA-1289/2014**

**New Delhi this the 17<sup>th</sup> day of January, 2017.**

**Hon'ble Mr. Shekhar Agarwal, Member (A)**  
**Hon'ble Mr. Raj Vir Sharma, Member (J)**

Sh. Gopal Chandra Sahoo,  
House No. 9832-A (Second Floor),  
Ahata Thakur Dass, Amrik Ganj,  
Sarai Rohilla, Delhi-110 035. .... Applicant

(through Sh. Aditya V. Singh for Sh. M.R. Chawla, Advocate)

Versus

All India Institute of Medical Sciences  
through the Director,  
Ansari Nagar, New Delhi-110 029. .... Respondent

(through Sh. Saurabh Chopra, Advocate)

**ORDER (ORAL)**

**Mr. Shekhar Agarwal, Member (A)**

The applicant was working as a LDC in All India Institute of Medical Sciences. He was accused of accepting a bribe in a sting operation conducted by a private TV Channel. It was telecast at 22 hours on 11.05.2007. The applicant was placed under suspension on 12.05.2007. A major penalty charge sheet was issued to him on 31.10.2007. In the aforesaid charge sheet three witnesses were cited by the respondents. Annexure-IV of the charge sheet containing the list of witnesses is extracted below:-

“1. Sh. Ashok Kumar Panl  
C/o Sh. Ashok Kumar Dash

At-Mallha Sahi  
Pqr-Taladanda  
Via-Kujanga  
Distt. Jagatsinghpur  
ORISSA.

2. Sh. S. Ranjan Ranl  
C-2, Ram Dutt Enclave  
Uttam Nagar  
New Delhi-110059.
3. Jasleen Singh  
Manager Corporate Office  
INDIA TV Film City  
NOIDA-201301."

2. The contention of the applicant is that none of the cited witnesses were produced during enquiry. Moreover, the prosecution witness from the TV channel submitted a letter stating that she did not know anything about the incident. Consequently, the Enquiry Officer submitted his report on 10.05.2011 exonerating the applicant from all allegations. The respondents were, however, not happy with the enquiry report and ordered a de novo enquiry by appointing another Enquiry Officer on 25.08.2011. The applicant then filed OA-4355/2011 challenging the aforesaid action of the respondents. This was decided on 28.05.2013 and the Tribunal ordered that no fresh enquiry can be initiated on the same charges. Liberty was, however, given to the respondents to conduct further enquiry, if so advised. The respondents thereafter issued a Memorandum dated 12.10.2013 whereby reasons for disagreement with the Enquiry Officer's report were furnished. The applicant submitted his detailed representation on 29.10.2013. After considering the same, the

Disciplinary Authority passed order dated 18.12.2013 imposing penalty of compulsory retirement on the applicant. An appeal filed against the aforesaid order was dismissed by the Appellate Authority on 07.03.2014. The applicant has now approached this Tribunal seeking the following relief:-

- “(i) allow the present application.
- (ii) quash and set aside the proceedings of the Respondent after the Order dated 28.05.2013 was passed by this Hon'ble Tribunal in OA No. 4355/2011.
- (iii) quash and set aside the Orders of Respondent dated 18.12.2013 confirmed in order dated 07.03.2014 and direct the Respondent to take back the Applicant in service with all benefits including the past salary (i.e. DA, TA & HPCA), seniority etc.
- (iv) to allow costs of the application; and
- (v) to issue any such and further order/directions this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case.”

3. At the outset learned counsel for the applicant stated that this was a case of no evidence as none of the cited witnesses in the enquiry were produced by the prosecution. On being confronted with this submission, learned counsel for the respondents could only state that at page-380 of the paper-book, a letter from one of the cited witnesses, namely, Sh. Ashok Kumar Pani is available. He submitted that this could be read as evidence against the applicant.

4. We have heard both sides and have considered their submissions. We agree with the learned counsel for the applicant that since none of the cited witnesses could be produced in the enquiry, this is a case of no evidence. No document cited against the applicant in the charge sheet can also be read as evidence since it has not been proved by any of the witnesses. Thus, there is neither oral nor documentary evidence against the applicant. Hence, this is a case of no evidence and, therefore, the orders passed by the Disciplinary Authority and Appellate Authority cannot be sustained.

5. Accordingly, we allow this O.A. and quash the impugned orders of the Disciplinary Authority dated 18.12.2013 and of the Appellate Authority dated 07.03.2014. The applicant shall be taken back in service with all consequential benefits. The aforesaid benefits shall be extended to him within a period of 08 weeks from the date of receipt of a certified copy of this order. No costs.

**(Raj Vir Sharma)**  
**Member (J)**

**(Shekhar Agarwal)**  
**Member (A)**

/Vinita/