

**Central Administrative Tribunal  
Principal Bench**

**OA No.1370/2015**

New Delhi, this the 2<sup>nd</sup> June, 2016

**Hon'ble Mr. Justice Permod Kohli, Chairman  
Hon'ble Mr. V. N. Gaur, Member (A)**

Ms. Surekha Sama  
Aged 54 years,  
S/o Late Ram Murti Sama,  
Working as Secretary on Deputation,  
Group A post,  
R/o House No.75, Sector 16 A,  
Faridabad (Haryana) .... Applicant.

(By Advocate : Shri V. S. R. Krishna with Shri Subodh Kaushik)

Versus

Government of NCT of Delhi

Through

1. The Chief Secretary  
Delhi Secretariat  
Players Building, IP Estate,  
New Delhi-2.
2. The Secretary  
Department of Health and Family Welfare,  
Govt. of NCT of Delhi,  
9<sup>th</sup> Level, A Wing, Delhi Secretariat,  
New Delhi 110 002. ... Respondents.

(By Advocate : Shri Pradeep Singh Tomar for Ms. Sangita Rai)

**: O R D E R (ORAL) :**

**Justice Permod Kohli, Chairman :**

The applicant is holding the post of Sister Tutor. She was served with a charge sheet for minor penalty which culminated into award of penalty of Censure vide order dated 04.12.2010. This order came to be challenged in OA No.3430/2010. The said OA came to be disposed of by this Tribunal vide order dated 27.09.2011 with the following observations/directions:-

“8. During the course of arguments, we were thinking of, and to an extent observed as well, that whereas, we may retain the first order divesting the applicant of the acting charge of Principal

Tutor, we may set aside the order dated 4.12.2010 inflicting the punishment of censure upon her, but inasmuch as, some of the aspects which have been pointed out would be common to both the orders, in our view, both the orders shall have to be set aside. We order accordingly. In the peculiar facts and circumstances of this case, we direct that the matter may now be decided by an authority higher to the Medical Superintendent, who, we are told, would be the Principal Secretary (Health), Department of Health & Family Welfare, the 3rd respondent herein. It may be clearly understood that we are making no adverse comments upon the Medical Superintendent for the simple reason that he has already applied his mind not once but twice, and on both occasions stated the same reasons for rejecting the defence of the applicant. On the principle that justice should not only be done, it must also appear to have been done, we would like the matter to be taken up and finally determined by the Principal Secretary (Health), as mentioned above.

9. The Original Application is disposed of in the manner fully indicated hereinabove. There shall, however, be no order as to costs.”

As a consequence of the observations of the Tribunal, the respondents considered the case of the applicant and the penalty of Censure was transformed into the administrative warning vide order dated 11.07.2014. The relevant portion of the order reads as under:-

“Now, therefore, I, S.C.L. DAS, Secretary (H&FW) after considering all the aforesaid facts and circumstances of the case, am of the view that ends of justice would be met in this case if the delinquent officer is issued an administrative warning to be careful in her conduct in future in such matters and a copy of the same be enclosed with the APAR and service book of the officer. I order accordingly.”

2. The grievance of the applicant is that on account of the aforesaid penalty of Censure, she was considered and found unfit for promotion to the post of Senior Lecturer in the DPC held on 07.01.2011. From the perusal of the minutes of the meeting of the DPC held on 07.01.2011 (Pages 15 to 18), we find that the applicant was considered and assessed for promotion, but has found unfit. At the bottom of the assessment, the following note is appended:-

“\*On account of a serious misconduct on her part which resulted in the penalty of ‘Censure’ imposed vide order dated 04.12.2010.”

It is thus abundantly clear that the applicant has been denied effective consideration for promotion on account of penalty of Censure awarded to her in disciplinary proceedings on 04.12.2010.

3. The claim of the applicant is that on account of subsequent event, i.e., order dated 11.07.2014 whereby the penalty of Censure was taken away and an administrative warning was issued, the applicant's case for promotion to the post of Senior Lecturer is required to be reconsidered in review DPC. We had directed the respondents to file short reply as to whether any review DPC has been convened on account of subsequent event referred to hereinabove. A short affidavit has been filed by the respondents making following statement in para 3 :-

“3. In this regard it is submitted that the proposal could not be send to UPSC for conveying review DPC due to shifting of nursing section from one place to another place and acute shortage of staff. However, now the proposal has been prepared as per available records and being forwarded to UPSC for convening review DPC and the matter is being taken on priority and will be decided in due course of time in consultation with UPSC.”

4. In view of the averments made in the short reply that the respondents have also initiated the process for convening review DPC by the UPSC, the only direction which is now required to be issued in the present OA is to complete the process of review DPC on account of order dated 11.07.2014. This OA is accordingly disposed of with direction to the respondents to complete the process of review DPC to consider the claim of the applicant for promotion to the post of Senior Lecturer, and communicate the outcome of the DPC to the applicant. In the event, he is found fit by the DPC, consequential orders shall be passed. The entire exercise is to be completed within a period of three months from the date of receipt of copy of this order

**(V. N. Gaur)**  
**Member (A)**

**(Permod Kohli)**  
**Chairman**

/pj/