

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI**

OA No.4030/2014

This the 16<sup>th</sup> day of November, 2016

**Hon'ble Shri Justice Permod Kohli, Chairman  
Hon'ble Shri Shekhar Agarwal, Member(A)**

Dr. A K Alok  
S/o Late Shri Raj Kishore Prasad Verma  
(Age 62 ½ years), J-33, IInd Floor  
Saket, New Delhi-110017. ....Applicant

(Through Advocate: Shri Vipul Sharma)

Versus

1. Lt. Governor of Delhi, Raj Niwas, Civil Lines  
Delhi-110054.
2. Director (Vigilance), Govt. of NCT Delhi  
4<sup>th</sup> Level, C Wing, Delhi Secretariat  
IP Estate, New Delhi-110002.
3. Director, Health Services, Govt. of NCT Delhi  
F-17, Karkardooma, Delhi.
4. Secretary (Health & Family Welfare)  
Govt. of NCT Delhi  
9<sup>th</sup> Level, A Wing, Delhi Sectt  
IP Estate,  
New Delhi-110002. ....Respondents

(By advocate: Shri S M Arif)

**Order (Oral)**

**Justice Permod Kohli, Chairman**

The respondents have chosen not to appear in this case. Vide order dated 01.03.2016, right to file reply by the respondents also stands forfeited.

2. Since none has appeared on behalf of the respondents, this application is being disposed of after hearing learned counsel for the applicant.

3. The applicant was serving as a Dental Surgeon in GNCT of Delhi. Vide memo dated 10.05.2011, the Disciplinary Authority proposed to initiate major disciplinary proceedings against him in terms of Rule 14 of CCS(CCA) Rules, 1965. The memo was accompanied with the articles of charge framed against the applicant as also the statement of imputation of misconduct in support thereof, list of documents and list of witness etc. Following charges were framed against the applicant:-

**"Article-I**

That Dr. A.K. Alok while working as Dental Surgeon in Malviya Nagar Colony Hospital during the period 2003-07 has committed gross misconduct as much as he was found carrying private practice in a clandestine manner for profit without prior approval of the competent authority from Shop No.9, J Block, Central Market, Saket which is the violation of the provisions of rule 15 of CCS (Conduct) Rules, 1965. Dr. A.K. Alok also had diverting patients from Government dispensary/hospital to his clientele.

By his aforesaid act, Dr. A.K. Alok, Dental Surgeon of DGHS has failed to maintain devotion to duty and acted in a manner unbecoming of a government servant thereby contravening the provisions of Rule 3 and Rule 15 of CCS (Conduct) rules, 1964.

## Article-II

That during the aforesaid period and while functioning in the aforesaid office, the said Sh. A.K. Alok has committed gross misconduct as much as he drew non practicing allowance approximately amounting to Rs.2,60,515/- concealing the fact of carrying practice from Shop No.9, J Block, Central Market, Saket in violation of conditions of non-practicing allowance.

By his aforesaid act Dr. A.K. Alok, Dental Surgeon of DGHS has failed to maintain absolute integrity and acted in manner unbecoming of a Government servant thereby contravening the provisions of Rule 3 of CCS (Conduct) Rules, 1964."

4. It is not coming out from the record as to whether the applicant submitted his response to the memorandum as required in it within ten days. In any case, the disciplinary authority appointed the inquiry officer and the inquiry was held against the applicant. The inquiry officer submitted her report dated 26.02.2013 holding both the charges not proved. The contention of the applicant is that despite the charges having not proved against the applicant during the course of the inquiry, the respondents have not released his retiral benefits nor considered him for promotion from the date his juniors were promoted. The applicant has accordingly filed this OA seeking the following reliefs:-

- "a) Respondents be directed to act upon the findings of I.O. and exonerate the Applicant.
- b) Respondents be directed to allow all the consequential benefits including promotion from due date and other entitlements with

arrears as his juniors have been promoted already. The payments on account of amounts withheld for entitlements such as telephone etc. be got paid.

- c) To pass orders directing the Respondents to grant all other consequential benefits with proper re-fixation of retiral benefits after promotion and release the amount towards gratuity, leave encashment, commutation and Conveyance Allowance for the period which was due and payable etc. together with interest @18% for the period of delay.
- d) To pass a time-bound direction to prevent further delay in the case."

5. The applicant who is also present in court has stated during the course of the hearing that the pension, gratuity and leave encashment has been paid to him after filing of this OA. Since counter affidavit has not been filed, and there is no averment in the OA also whether the Disciplinary Authority has taken any decision on the report of the inquiry authority or not. The applicant has made various representations for release of his retiral benefits as he retired on 31.05.2012. From the order dated 17.05.2013 (Annexure A-3), it appears that on the recommendations of the Departmental Promotion Committee, Dental Surgeons who were working as Staff Surgeon(NFSG) in the pay scale of PB-4 (Grade Pay-8700) were promoted to the post of Consultant SAG in the pay scale of PB-4 in Grade Pay of Rs.10,000 on the basis of extended DACP Scheme notified vide GNCTD order dated 27.11.2012, from the dates mentioned against their respective names. As many as 4 doctors were

promoted and given benefit of SAG grade w.e.f. 29.10.2008. Learned counsel submits that the promotees in the aforesaid order are all junior to him and but for the pendency of the disciplinary proceedings he would have also been promoted w.e.f. 29.10.2008 on the basis of his seniority etc. However, we find that there is no such averment in OA or any document annexed thereto that these promotees are junior to the applicant. Under these given circumstances, and in absence of relevant facts, we permit the applicant to file a detailed representation with regard to any unpaid retiral benefit as also for the claim of promotion from his due date or at least from the date his juniors were promoted. Let the representation be filed within a period of four weeks. Respondents are directed to take decision on the representation of the applicant within a period of two months from the date of receipt of the representation and dispose of the same by a reasoned and speaking order.

6. With the above observations, the OA stands disposed of. No costs.

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

**( Justice Permod Kohli )  
Chairman**

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