

Central Administrative Tribunal Principal Bench

OA No. 768/2015

New Delhi, this the 29th day of August, 2018

**Hon'ble Ms. Nita Chowdhury, Member (A)
Hon'ble Mr. S.N. Terdal, Member (J)**

Jai Prakash Sharma, Pharmacist, (Retired)
Aged about 60 years
S/o Sh. K.D. Sharma
R/o D-14/30, Sec-7, Rohini
Delhi - 110085Applicant

(By Advocate: Mr. Anuj Kr. Sharma for Mr. MK Bhardwaj)

Versus

North DMC & Ors. Through

1. The Commissioner
North DMC (North Delhi Municipal Corporation)
JLN Marg
Civic Centre, New Delhi – 110002
2. The Addl. Commissioner (Health)
North DMC (North Delhi Municipal Corporation)
JLN Marg, Civic Centre, New Delhi – 110002

....Respondents

(By Advocate : Mr. Manjeet Singh Reen)

ORDER (ORAL)

Ms. Nita Chowdhury, Member (A)

The applicant has filed this OA, seeking the following reliefs:-

“(i) To quash and set-aside the impugned Order dated 13.12.2013 along with corrigendum of the disciplinary authority and order dated 12.02.2014 of the

Appellate Authority and direct the respondents to restore the reduced pay with all other consequential benefits including arrears of pay.

- (ii) To declare the action of respondents in initiating proceedings vide charge memo dated 29.10.2001 as unjustified and direct the respondents to release all consequential benefits including arrears of pay to the applicant.
- (iii) To pass any other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case.
- (iv) To allow the OA with cost."

2. The brief facts of the case are that a departmental inquiry was initiated against the applicant on the allegations that he failed to maintain Diet Register indicating the quantity received and issued to Hospital Kitchen in respect of diet items during 1997-98 in which the inquiry officer held the charges as "not proved". However, disciplinary authority, disagreeing with the findings of the inquiry officer, issued a show cause notice proposing penalty of "reduction of pay in the present time scale of pay by one stage till the date of retirement with cumulative effect" and the said penalty was imposed upon the applicant. Subsequently, vide order dated 20.12.2013, the penalty order was corrected by making the penalty without cumulative effect. Being aggrieved by

the said penalty order, the applicant filed appeal to the Commissioner being the appellate authority. Thereafter the respondents issued an order dated 27.01.2014 whereby the financial benefits paid to the applicant during suspension were restricted, however, the suspension period was not treated as spent on duty. Accordingly, the respondents rejected the appeal against the penalty order but the word 'till the retirement' was substituted as 27.02.2014. Being aggrieved by the aforesaid order dated 27.01.2014, the applicant submitted an appeal on 12.03.2014 for payment of full pay and allowances by treating the suspension period as spent on duty for all purposes, which was allowed vide order dated 11.06.2014 holding that the applicant is entitled to full pay and allowances and the suspension period was required to be treated as spent on duty for all purposes. Accordinlgy, the suspension period was directed to be treated as spent on duty.

3. On previous date, i.e., 09.08.2018, this Tribunal has passed the following orders:-

“Heard both the parties.

The only short issue remaining in this OA is as to whether the suspension in respect of the applicant, Sh. Jai Prakash Sharma, is to be treated as one in which he can draw full pay and allowances. The respondents are unable to explain the purport of the order dated 11.06.2014, in which it is not clear as

who is the person, with respect to whom, it has been stated that one of the appellant is entitled to full pay and allowances. Respondents are directed to clarify this within one week. Applicant is directed to show a copy of the order clearly stating that he is one of the beneficiaries of this order.

List on 29.08.2018 as Part Heard.

Order **Dasti.**

4. Today, learned counsel for the respondents appeared and answered to the query by drawing our attention to Annexure A/1 order dated 11.06.2014 which reads as under:-

“Now , therefore Commissioner, NDMC considering the above position, that the points raised in the appeals are convincing as the Hon’ble Court has already passed the order for payment of full salary for the suspension period in respect of one of the appellants and also considering other relevant record in its entirety has been pleased to draw full pay & allowances for their respective suspension periods as indicated in the office order dated 27.1.2014 and this period also be treated as spent on duty for all intents and purposes in respect of Sh. Jai Parkash Pharmacist, Sh. Surender Singh, UDC and Sh. V.K. Sachdeva, UDC vide his orders dated 30.4.2014.”

5. The learned counsel for the respondents is also able to show that when the applicant filed an appeal dated 12.03.2014 before the Commissioner – NDMC against the order dated 27.01.2014 requesting to grant him full pay and allowances for his suspension period. The Commissioner – NDMC, after considering the facts and circumstances, relevant records in its entirety, has been

pleased to grant full pay and allowances for his respective suspension period as indicated in the office order dated 27.01.2014 and the period of suspension has been treated as spent on duty for all intents and purposes.

6. Quite clearly, the respondents, while considering the appeal of the applicant dated 12.03.2014, have passed the order dated 11.06.2014 whereby the Commissioner, NDMC, while taking into consideration that Industrial Tribunal had already passed the order for payment of full salary for the suspension period, has found all the points raised in the appeal, are convincing and hence, the grant of payment of full salary for the suspension of the applicant has been made and the same has been admitted by the applicants in his OA itself. Hence, nothing remains in this OA and the same is accordingly dismissed.

(S.N. Terdal)
Member (J)

(Nita Chowdhury)
Member (A)

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