

**Central Administrative Tribunal
Principal Bench**

OA No.1793/2017

New Delhi, this the 30th day of July, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Yogesh Kumar, S/o Sh. Bharat Lal
R/o WZ-52A, Ground Floor
Gali No.11, Beriwalla Bagh
Aged about 41 years
Medical Officer, GNCT of Delhi
Hari Nagar, Delhi-110064. ... Applicant

(By Advocates: Shri Ajesh Luthra and Shri Jati Parashar)

Vs.

1. Govt. of NCT of Delhi
Through Chief Secretary
5th Floor, Delhi Sachivalaya
New Delhi.
2. The Principal Secretary
(Department of Health and Family Welfare)
9th Level, A-Wing, IP Extension
Delhi Secretariat, Delhi-110002.
3. Deen Dayal Upadhyay Hospital
(GNCT of Delhi)
Through its Medical Superintendent
Hari Nagar, New Delhi-110064.
4. Lieutenant Governor of Delhi
Raj Niwas, Rajpur Road
Delhi.
5. The Director, Directorate of Vigilance
(GNCT of Delhi)
4th Level, C-Wing, Delhi Sachivalaya
I.P. Estate, New Delhi-110002. ... Respondents

(By Advocate: Shri Amit Anand)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman:-

The applicant joined as a Medical Officer in the Delhi Health Service cadre on 15.05.2012. Earlier to that, he is said to be appointed on contract basis. He was issued a charge memo dated 17.03.2016 wherein it was alleged that he conducted the Pre-natal sex determination tests illegally at Indu Ultrasound Scan Centre, Singhana, Distt. Jhunjhunu, Rajasthan State, in violation of the provisions of PCPNDT Act, 1994, Rajasthan Medical Act, 1952 and IPC and on that basis an FIR was registered in PS, PBI, Jaipur, Rajasthan. It was also mentioned that he was arrested on 18.08.2014.

2. The second charge is that while functioning as Medical Officer with the Delhi Administration, he was conducting private medical practice for pecuniary gain that too, in the field of Ultra Sound Scan.

3. The applicant contends that the charge sheet is issued on the basis of FIR No.2/2014 and the same has

been stayed by the Hon'ble Rajasthan High Court. It is also stated that the allegations made against the applicant are totally baseless and the charge sheet cannot be sustained either on facts or in law.

4. The respondents filed a counter affidavit opposing the OA. It is stated that the applicant was in jail for three months and that it shows the level of his illegal acts and mis-conduct. As regards the pendency of the case in High Court, the respondents contend that the standard of proof in the departmental proceedings on the one hand and criminal proceedings on the other hand are totally different and that nothing is warranted in the articles of charge sheet.

5. Heard Shri Ajesh Luthra, learned counsel for the applicant and Shri Amit Anand, learned counsel for the respondents.

6. The allegations contained in the charge sheet are very serious and virtually pricks conscious of anyone. Even if the charges are partly proved, it would be a very sad reflection on the applicant. Such illegal acts are leading to the female foeticide prevailing in certain

states. Just for the sake of money, the persons belonging to a noble profession are stooping down to low levels. The very fact that the applicant has been arrested and he was in jail for three months, discloses the gravity of the allegations made against him.

7. The second allegation is about the private practice stated to have been undertaken by the applicant even while continuing in Govt. service. It is well settled that it is only when the disciplinary proceeding are initiated by an authority not competent, or where the charges, even if taken on their face value, do not make out any case of misconduct, that a Court or Tribunal can interfere with the same. No such grounds are either pleaded or proved.

8. We dismiss the OA. It is needless to mention that the order of stay granted earlier, shall stand vacated. There shall be no order as to costs.

(Aradhana Johri)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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