

Central Administrative Tribunal Principal Bench, New Delhi

O.A. No.1604/2018

Monday, this the 23rd day of April 2018

Hon'ble Mr. Justice Dinesh Gupta, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)

Dr. M P Sarangi
s/o Shri Sarat Chandra Sarangi
aged about 64 years, Group A
Designation : Doctor
Presently in Montago Bay
Jamaica, West Indies
(Through
Manoranjan Mishra s/o Shri Biswanath Mishra
r/o Plot No.216/129, Lane 5, Aerodrome Area
Bhubaneswar-751020
Odisha, Power of Attorney Holder of Dr. M P Sarangi)

..Applicant

(Mr. Piyush Sharma, Advocate)

Versus

Government of India

1. Through Secretary
Ministry of health & Family Welfare
Govt. of India
2. Principal Secretary
Department of Health
Ministry of Health & Family Welfare
Govt. of India

..Respondents

(Mr. Yogesh Kumar Mahur, Advocate for Mr. Manish Kumar, Advocate)

O R D E R (ORAL)

Mr. K N Shrivastava:

Notice. Mr. Yogesh Kumar Mahur for Mr. Manish Kumar, learned counsel, appears and accepts notice on behalf of respondents.

2. The applicant while he was working as a Professor in the Department of Forensic Medicine & Toxicology in Lady Harding Medical College and

Smt. Sucheta Kriplani Hospital, New Delhi, he was sent on deputation to Jamaica in the year 1999 for a period of one year. The said deputation was extended from time to time up to the year 2004. The applicant did not join his duty thereafter. For his unauthorized absence, the disciplinary inquiry proceedings were started and vide order dated 20.08.2009, he was dismissed from service, and his appeal preferred there-against was also rejected by the appellate authority on 08.09.2011. The applicant challenged the dismissal as well as appellate orders in O.A. No.4277/2012 before this Tribunal, which was disposed of vide order dated 07.05.2015 with the following observations/directions:-

“5. In view of above, we are satisfied that the order of disciplinary authority is bad and cannot be legally sustained. The impugned order dated 29.08.2009 of the Disciplinary authority is accordingly quashed and set aside. With the passing of this order, the order passed in review under Rule 29 (A) dated 08.09.2011 does not survive. Consequential benefits if any shall be regulated by the respondents in consonance with the rules and instructions.

6. The respondents shall have liberty to pass fresh orders in the disciplinary proceedings, in accordance with the Rules and instructions laid down for this purpose.”

2. As could be seen from the above, the main ground for quashing and setting aside the penalty order was that a copy of advice of Union Public Service Commission (UPSC), which was acted upon by the respondents, was not provided to the applicant, enabling him to submit his representation against the same. The order of the Tribunal was challenged by the respondents before the Hon’ble Delhi High Court in W.P. (C) No.5043/2016, which was dismissed vide order dated 22.03.2017 with the following observations:-

“2. In order to protect the interests of the petitioners, the Tribunal, in the impugned order, has specifically observed that they would be entitled to pass a fresh order in the disciplinary proceedings in accordance with Rules and instructions laid down for the said purpose. In fact, this Court, vide order dated 30.5.2016, while issuing notice in the writ petition had observed that without prejudice to the rights and contentions of the petitioners, it will be open to them to pass a fresh order in terms of the impugned order in accordance with law. The petitioners inspite of the aforesaid observation and liberty have not taken steps in terms of the said order.”

3. In compliance of the Tribunal's *ibid* order, the respondents, vide impugned Annexure A-1 letter dated 06.02.2018, furnished a copy of the UPSC advice to the applicant and sought his response in the matter within fifteen days. The applicant submitted his response to the advice of UPSC vide his Annexure A-14 (colly.) letters dated 13.03.2018, 16.03.2018, Annexure A-15 letter dated 24.03.2018 and Annexure A-16 letter dated 31.03.2018. However, the respondents have not yet passed any final order thereon.

4. Through the medium of this O.A., the applicant has sought the following reliefs:-

“a. Set aside / quash the vitiated show cause notice dated 6.2.2018 issued by the Respondent

And / or

b. Direct the Respondent to take into consideration the Reply/ Rejoinder dated 13th, 16th, 24th & 31st March, 2018.. (Annexure 13 (colly), 14 & 15 submitted by the applicant before passing any final order.”

5. Heard learned counsel for the parties briefly.

6. We are of the view that at this stage the ends of justice would meet by issuing a time bound direction to the respondents to pass a final order after taking into consideration the aforementioned representations of the applicant against the advice of UPSC. Accordingly, we dispose of this O.A. with a direction to the respondent No.1 to consider the aforesaid representations of the applicant preferred against the UPSC advice and pass final order in the disciplinary inquiry proceedings within a period of three months from the date of receipt of a copy of this order. Needless to say that the applicant shall have liberty to take appropriate remedy, as available to him, in case he remains dissatisfied with the order to be passed by respondent No.1 on his representations.

(K.N. Shrivastava)
Member (A)

(Justice Dinesh Gupta)
Chairman

April 23, 2018
/sunil/