

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

**ORIGINAL APPLICATION NO.060/01181/2017
Chandigarh, this the 11th day of May, 2018**

**CORAM: HON'BLE MR. JUSTICE M.S. SULLAR, MEMBER (J) &
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

Dr. Anand Kumar Sharma, Assistant Professor, Govt. College of Art, Sector-10, Chandigarh, Age – 49, ‘B’.

.....Applicant

(Argued by: Mr. S.S. Pathania, Advocate)

VERSUS

1. Union of India through Secretary, Ministry of Human Resource Development (Department of Education), Shastri Bhawan, New Delhi.
2. Chandigarh Administration through Secretary, Technical Education, Union Territory, Chandigarh.
3. All India Council of Technical Education, 7th Floor, Chander Lok Building, Janpath, New Delhi-110001.
4. Union Public Service Commission, Dholpour House, Shahjahan Road, New Deli through its Secretary
5. Sh. Rakesh Kumar Popli, JSTE-cum-HOD, Govt. College of Arts, Sector-10, Chandigarh.
6. Sh. K.P.S Mahi, Acting Principal, Govt. College of Art, Sector-10, Chandigarh.

....Respondents

**(Argued by: Mr. A.L. Nanda, proxy counsel for Mr. Arvind Moudgil, Advocate, for Respondents No.2,5&6.
Mr. B.B. Sharma, Advocate, for R.No.4.
Mr. Harsh Goyal, Counsel for Respondent No.3)**

ORDER (Oral)
JUSTICE M.S. SULLAR, MEMBER (J)

1. The challenge in the instant Original Application (OA) instituted by the applicant, Dr. Anand Kumar Sharma, working as Assistant Professor, Government College of Art, Sector 10, Chandigarh, (for brevity the "Art College") is to the impugned order dated 22.03.2017 (Annexure A-14), whereby the Administrator, Union Territory, Chandigarh, has given the charge of Acting Principal of the Art College, to one Mr. Rajesh Kumar Sharma, Assistant Professor (originally respondent no.6).
2. The epitome of the facts and material, which needs a necessary mention, for the limited purpose of deciding the core controversy, involved in the instant OA, at this stage, and emanating from the record, is that initially applicant, Anand Kumar Sharma, had filed OA bearing No.060/00686/2014, challenging the assignment of charge of Principal of the Art College to Mr. Manohar Lal son of Mr. Gian Chand. During the course of hearing of the pointed OA, it was revealed, that after completion of period, Mr. Manohar Lal was no longer Acting Principal, in the Art College, and the charge of the Principal was given to Mr. S.S. Dahiya, as such earlier OA No.060/00686/2014, filed by the applicant, was dismissed, as having become infructuous, by this Tribunal.
3. On the other hand, Mr. Manohar Lal, challenged the order of giving charge of the post of Principal of Art College to Mr. S.S Dahiya in O.A.No.060/01164/2014, which was disposed of, vide order dated 04.11.2015 (Annexure A-8), by a Coordinate Bench of this Tribunal. The operative part of the order reads as under:-

"14.Accordingly the same is quashed and set aside. The matter is remitted back to the respondents to fill up the post of Principal through UPSC as soon as possible as per the rule formation. Till then they may consider giving the current charge to any one of the existing faculty members of the respondent college who are eligible and who have nothing adverse against them in terms of their conduct. This arrangement can continue till a regular incumbent joins. In case the respondents come to a situation where they are

unable to find a suitable person from the eligible flock, they can resort to making appointment of a person from administrative side, as a short gap arrangement so that the administrative work of the college does not suffer. The O.A stands disposed of in the aforesaid terms.

15. No costs."

4. Likewise, it is not a matter of dispute that in pursuance of the order dated 04.11.2015 (Annexure A-8), titled **Manohar Lal Vs. Union of India & Others**, the Competent Authority has entrusted the charge of the post of Principal, Art College, to Cap. Karnail Singh, PCS, vide orders dated 4/7.1.2016 (Annexure A-9).

5. Thereafter, the charge of Acting Principal, Art College, was given to Mr. Rajesh Kumar Sharma, vide order dated 22.3.2017 (Annexure A-14), by the competent authority. Again, the applicant filed the present O.A., challenging the order dated 22.03.2017 (Annexure A-14). Admittedly, during the pendency of the O.A., charge of the Acting Principal, Art College, was given to Mr. K.P.S. Mahi, and the applicant has moved an application for substituting him, in place of Mr. Rajesh Kumar Sharma, which was allowed and Mr. K.P.S. Mahi was impleaded as respondent no.6, instead of Rajesh Kumar Sharma, in the present O.A.

6. On the contrary the respondents have refuted the claim of the applicant and filed the short reply to the O.A, wherein, it was explained as under :-

(i) That the applicant is guilty of misrepresenting the facts and of *suppresco* very and *exprescio falsi* to the extent that the applicant has completely suppressed true and material facts in the present application and has approached this Hon'ble Court with unclean hands. The true facts of the case are that Sh. Rajesh Kumar Sharma, Acting Principal vide his application dated 10.11.2017 submitted his resignation from the post of Principal.

(ii) That the respondent Chandigarh Administration relieved Sh. Rajesh Kumar Sharma, the then Acting Principal and assigned the charge of the post of Principal-cum-HOD of the Govt. College of Art, Chandigarh to Mrs. Navjot Kaur, PCS, Director Public Relations, Union Territory, Chandigarh in addition to her own duties vide its No. 22/5/54-IH(4)-2018/2265 dated 2.2.2018 (Annexure R-1). Further, the Administrator, has assigned the charge of PCA-cum-HOD to Sh. Kuljit Paul Singh Mahi, PCS, Additional Secretary Home, Chandigarh Administration during the Child Care Leave of Mrs. Navjot Kaur, PCS DPR w.e.f. 7.2.2018 to 9.3.2018 (Annexure R-2). Now Smt. Navjot Kaur, PCS has joined after availing the Child Care Leave on 12.3.2018.

7. Instead of reproducing the entire contents of the reply, in toto, and in order to avoid repetition of facts, suffice it to say that virtually acknowledging the factual matrix and reiterating the validity of the impugned order, the respondents have stoutly denied all other allegations and grounds contained in the OA and prayed for its dismissal.

8. Having heard the learned counsel for the parties, having gone through the record with their valuable assistance, and after considering the entire matter, we are of the view that the OA has become infructuous and deserves to be dismissed as such, for the reasons mentioned herein below.

9. What cannot possibly be disputed here is that, the Competent Authority had assigned the duties of the post of Principal of the Art College to one Mr. Manohar Lal S/o Sh. Gian Chand, vide orders dated 26.5.2009 and 6.6.2012. Applicant Dr. Anand Kumar Sharma, filed O.A.No.060/00686/2014 challenging the appointment of Mr. Manohar Lal, as Acting Principal. During the pendency of the said O.A., the charge of the Principal was given to Dr. S.S. Dahiya, Director, State Council of Education and Research Training, Chandigarh, as such O.A. filed by the applicant was dismissed as having infructuous.

10. Sequelly, the matter did not rest there. While deciding O.A.No. 060/01164/2014 filed by Mr. Manohar Lal S/o Gian Chand, respondents were directed to fill up the post of Principal through Union Public Service Commission, as soon as possible, as per the rule formation. Till then, they may consider giving the current charge to any one of the existing faculty members and in case respondents come to a situation where they are unable to find suitable person, from eligible flock, they can ***resort to making appointment of a person from***

administrative side, as stop gap arrangement, so that administrative work of the College does not suffer, vide order dated 4.11.2015 (Annexure A-8), by the Coordinate Bench of this Tribunal.

11. As a consequences thereof, the Administration assigned the duties of the Principal-cum-HoD of Art College, to Cap. Karnail Singh, PCS, vide order dated 4.1.206 (Annexure A-9) and then to Mr. Rakesh Kumar Popli, PCS, vide order dated 13.1.2017 (Annexure A-10).

12. Not only that, thereafter presently the charge of Principal-cum-HOD of the Art College, was assigned to Mrs. Navjot Kaur, PCS, Director Public Relations, Union Territory, Chandigarh, vide order dated 2.2.2018 (Annexure R-1). It was duly explained by the respondents that due to Child Care Leave (CCL) of Mrs. Navjot Kaur, PCS, w.e.f. 7.2.2018 to 9.3.2018, Mr. K.P.S. Mahi, PCS, Additional Secretary Home, Chandigarh Administration was temporarily assigned the charge of the Principal-cum-HOD. After availing the CCL, now Mrs. Navjot Kaur, PCS, has taken over the charge of Acting Principal of the Art College.

13. Thus, it would be seen that by Now, much water has flown down the river. Since Mrs. Navjot Kaur, PCS Director Public Relation, was assigned the duties of the Principal-cum-HOD, of the Art College, in the manner indicated hereinabove, so the instant OA filed against respondent No. 6 (Mr. K.P.S. Mahi), has become infructuous. Unless and until, the order assigning the charge to Mrs. Navjot Kaur, PCS, is challenged on the valid grounds, no relief can be granted to the applicant in the instant O.A, in the present circumstances of the case.

14. In the light of aforesaid reasons, since the instant OA has become infructuous, in the manner stated hereinabove, so the same is hereby dismissed, as such, in the obtaining circumstances of the case. However, the parties are left to bear their own costs.

Needless to mention, that in case applicant still remains aggrieved by the orders, assigning the charge of the Acting Principal-cum-HOD to Mrs. Navjot Kaur, then he would be at liberty to challenge its validity, by filing an independent OA, and in accordance with law.

(UDAY KUMAR VARMA)
MEMBER (A)

(JUSTICE M.S. SULLAR)
MEMBER (J)

11.05.2018

HC*