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**CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.210/00535/2015

Dated this Thursday, the 02nd May of May, 2019

**CORAM : DR. BHAGWAN SAHAI, MEMBER (ADMINISTRATIVE)
R.N.SINGH, MEMBER (JUDICIAL)**

Dr. Ajit Kumar Khare, Age about 48 years,
Presently working as Professor,
National Institute of Fashion Technology,
Kharghar, Navi Mumbai 410 210.
Residing at 602, Tulip Chaitali CHS Ltd.,
Plot No.13, Sector 4,
Kharghar,
Navi Mumbai 410 210.

... Applicant

(By Advocate Shri R.G.Walia)

VERSUS

1. Secretary, Govt. of India,
Ministry of Textiles, Udyog Bhavan,
New Delhi 110 001.
2. Director General,
National Institute of Fashion Technology,
Hauz Khas, New Delhi 110 016.
3. Ms. Pramila Sharan, Chairperson,
Internal Complaints Committee,
NIFT – Head Office,
NIFT, Hauz Khas,
New Delhi 110 016.
4. Ms. Prachi Mishra, Advocate Member,
Internal Complaints Committee,
NIFT – Head Office,
NIFT, Hauz Khas,
New Delhi 110 016.
5. Dr. Ruchika, Assistant Professor,
NIFT, NH – 65, Karwar,
Jodhpur – 342 037.

... Respondents

*(By Advocate Shri V.B.Joshi for R-1 & 2 and
Shri V.S.Masurkar for R-3 & 4)*

ORAL ORDER
Per : R.N.Singh, Member (Judicial)

Shri R.G.Walia, learned counsel for the applicant.

2. Shri V.B.Joshi, learned counsel for the official respondents Nos.1 and 2 appears with Shri Brijesh M. Deore, Joint Director, NIFT, Mumbai.

3. Shri V.S.Masurkar, learned counsel for the respondents Nos.3 and 4.

4. None for the respondent No.5.

5. At the outset, the learned counsel for the respondents Nos.3 and 4 submits that the respondent No.3 is an IRS Officer and not an employee of the respondents Nos.1 and 2. He further submits that the respondent No.4 is a Practising Advocate and the respondent Nos.3 and 4 were nominated by the Competent Authority as Chairperson and Member of Internal Complaints Committee (ICC). However, these respondents have subsequently resigned from that committee long back and to this effect the official respondents have issued an order dated 27.07.2016 (Annex MA-2, page 750-751).

6. The learned counsel for the respondents Nos.3 and 4 further submits that these respondents could not prepare any final report on the inquiry conducted against the present applicant, so they have not tendered such report to the official respondents.

7. Shri V.S.Masurkar, learned counsel for the respondents Nos.3 and 4 also submits that in view of such circumstances, he has moved an Miscellaneous Application No.893/2016 for deletion of such respondents from the array of the parties in the OA.

8. Shri V.B.Joshi, learned counsel appearing for the respondents Nos.1 and 2 submits that the Committee which was duly constituted by these respondents in which the respondent Nos.3 and 4 were the nominated as Chairman and Members respectively has already been abolished by the order dated 27.07.2016 (Annex MA-2, page 750-751). He further submits that the said Committee has not submitted any report to the Disciplinary Authority and if at all any kind of preliminary report

was submitted, the Disciplinary Authority has not taken its cognizance against the applicant in the present OA.

9. Shri V.B.Joshi, learned counsel for the official respondents Nos.1 and 2 and Shri Brijesh M. Deore, Joint Director, NIFT, Mumbai under instructions further submit that the post of Campus Director, NIFT, Jodhpur is a post which can be held by a Professor level officer at the Institute.

10. The learned counsel for the respondents Nos.1 and 2 further submits that the Competent Authority i.e. respondent No.2 has passed the order dated 12.03.2015 (Annex A-1) regarding posting of the applicant at NIFT, Mumbai. He also submits that Appellate Authority against such order in case of the applicant is Board of Governors of NIFT and if the applicant was aggrieved of such posting from Jodhpur to Mumbai, he could have preferred a representation to the Board of Governors, NIFT. But he has not done so.

11. In the aforesaid facts and circumstances, the learned counsel for the

respondents pray that the present OA should be dismissed as having become infructuous and / or being premature.

12. Shri R.G.Walia, learned counsel for the applicant vehemently disputes and denies the aforesaid contentions made by the learned counsels for the respondents Nos.1, 2, 3 and 4 and submits that he is having instructions to submit that the said committee had prepared a report on its inquiry. He also submits that the applicant has already preferred his statutory appeal dated 16.03.2015 (Annex A-7) requesting therein for review of the impugned order dated 12.03.2015.

13. Shri R.G.Walia, learned counsel for the applicant invites our attention to Annex A-7 itself wherein the respondents have acknowledged receipt of aforesaid appeal on 16.03.2015 and assured quick disposal of the case. However, he submits that till today the aforesaid Appeal is not disposed of.

14. Shri V.B.Joshi, learned counsel for the respondents Nos.1 and 2 further submits that the Competent Authority would

look into the matter afresh and the Competent Authority has already sent the documents to the Local Inquiry Committee of NIFT, Jodhpur, which is Independent Authority of the State Government to look into the matter and for taking further necessary action in accordance with the relevant rules and instructions.

15. In view of the aforesaid, we are of the view that the OA has become infructuous to the extent that the applicant has challenged the action of the respondents Nos.3 and 4 in conducting the inquiry against the applicant. With respect to prayer of the applicant for review of the impugned order regarding suspension of his contract for appointment as Director, NIFT, Jodhpur is concerned, the same can be disposed of with a direction to the Competent Appellate Authority to look into the same and consider it by passing a reasoned and speaking order without being influenced by any report (interim or final in nature) submitted by the earlier Committee consisting of the respondents Nos.3 and 4.

16. As aforesaid, OA is disposed of with a direction to the respondent No.2 to consider the appeal of the applicant dated 16.03.2015 (Annex A-7) and pass a reasoned and speaking order on it within a period of eight weeks from the date of receipt of certified copy of this order.

17. As regards the preliminary or any other inquiry report submitted by the earlier Committee, we direct that the fresh inquiry to be conducted in the subject matter of this OA shall not take any cognizance of such report.

18. All the pending MAs stands disposed of accordingly.

19. The record submitted by the respondents in a sealed cover is returned back to them in a sealed cover.

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(R.N.Singh)
Member (Judicial)

(Dr. Bhagwan Sahai)
Member (Administrative)

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