

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A./100/166/2017
M.A./100/518/2019
M.A./100/904/2017

New Delhi, this the 30th day of April, 2019

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

Sh. D.S. Meena,
S/o Late Shri Kishan Lal Meena
Aged 60 years
R/o B-37, Pocket-C SFS Flats
Mayur Vihar Phase-III
New Delhi

... Applicant

(Through Shri Rajesh Srivastava, Advocate)

Versus

1. Union of India,
Through the Secretary
Ministry of AYUSH
Government of India,
New Delhi
2. The Central Council for Research in Ayurvedic Sciences
Through its Director General
Jawahar Lal Nehru Bhartiya Chikitsa Aivam
Homeopathic Anusandhan Bhawan,
61-65, Institutional Area, D-Block,
Janak Puri, New Delhi-110058

... Respondents

(Through Shri Jasbir Bidhuri with Ms.Ritu Pama, for respondent
No.2
Shri S.K. Tripathi for Shri Gyanendra Singh, for
respondent No.1)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant was functioning as Assistant Director in the Central Council for Research in Ayurvedic Sciences (CCRAS) – 2nd respondent herein. He was issued a charge memo dated 28.12.2016 alleging that he was responsible for the preparation of promotion policy for the post of Assistant Director from Research Officer (Ayurveda) and for introduction of reservation for ST in promotion though not provided for under the Rules. The said charge memo is challenged in this OA.

2. The applicant contends that the incident alleged in the charge sheet pertains to the year 2002 and that there is inordinate delay in issuing the same. He further contends that he was due to retire on 31.12.2016 and few days before that, the charge memo was issued with the malafide intention.

3. The respondents filed detailed counter affidavit. It is stated that the applicant was responsible for lapses in facilitating out of turn promotion of one Dr. M.M. Rao, that the misconduct on the part of the applicant came to notice only in the year 2014 and thereafter the matter

was dealt with at various levels including the CVC. It is mentioned that the applicant and seven others were proceeded on the same issue and there is no truth in the allegation made by the applicant. As regards the content of the charge, it is stated that the applicant was instrumental in commission of serious misconduct and CVC advised initiation of major penalty proceedings against him.

4. We heard Shri Rajesh Srivastava, for the applicant, Shri Jasbir Bidhuri with Ms. Ritu Pama, for respondent no.2 and Shri S.K. Trivedi for Shri Gyanendra Singh, for respondent no.1.

5. The Articles of Charge framed against the applicant read as under:

“Article-I

That while Mr. D.S. Meena was working as Assistant Director (Coordination) at CCRAS Hqrs., on 11-06-2002 in File No.2-5/2001-CCRAS/Estt./Vol.I accepted and forwarded to Deputy Director (Admin.) a note submitted by Sh. R.N. Sharma, Assistant with statement that out of 3 posts to be filled by promotion from Research Officer (Ayurveda) to Assistant Director (Ayurveda) 2 posts pertains to UR and one post is reserved for ST category. As the rule denies reservation in promotion within Group-A, there cannot be reservation in promotion from the post of Research Officer (Ayurveda) to Assistant Director (Ayurveda) both being Group – A posts. Thus, Mr. D.S. Meena failed to point out the correct rule position before forwarding the note to higher authorities and misled the authorities.

Mr. D.S. Meena has acted in a manner unbecoming of a public servant by doing above, which also exhibits his

doubtful integrity. He has therefore, contravened the rule 3 (1) (i) and (iii) of CCS (Conduct) Rule 1964.

Article-II

That while Mr. D.S. Meena was working as Assistant Director (Coordination) at CCRAS Hqrs., in the same file on 17-06-2002 accepted and forwarded to Deputy Director (Admin) the note and an U.O. note submitted by Sh. R.K. Mahapatra, Assistant mentioning about reservation in promotion from Research Officer (Ayurveda) to Assistant Director (Ayurveda). As the rule denies reservation in promotion within Group-A, there is no reservation in promotion from the post of Research Officer (Ayurveda) to Assistant Director (Ayurveda). Thus Mr. D.S. Meena failed to point out the correct rule position for second time before forwarding the note and U.O. note to higher authorities and misled the authorities. This led to forfeiture of legitimate right of promotion of officer senior and deserving and undue promotion of Dr. M.M. Rao who was much junior and at Sl.No.12 of the seniority list.

Mr. D.S. Meena has acted in a manner unbecoming of a public servant by doing above, which also exhibits his doubtful integrity. He has, therefore, contravened the rule 3 (1) (i) and (iii) of CCS (Conduct) Rule 1964.”

6. It appears that the Recruitment Rules (RRs) for the post of Assistant Director do not provide for any reservation and still the applicant and seven others paved a way for promotion of one Dr. M.M. Rao by extending the benefit of reservation. Several complaints have been received both as regards the functioning and appointment of Dr. M.M. Rao and it is in the course of examination of those complaints, that the factum of reservation provided, came into the light, in the year 2014. Soon after that, the matter was taken to the CVC and thereafter the approval of the ministry was obtained. The record discloses that there is not much delay in the

process and the charge memo is issued at the earliest possible time after the relevant facts came to light.

7. In the counter affidavit, it is clearly mentioned that through a joint effort, the applicant and seven others managed the irregular promotion of Dr. M.M. Rao and the proceedings were initiated against all of them. Further, the reservation in promotion is such a thing that it must be supported by rules, and secondly, once it is introduced, it is bound to be followed in subsequent stages also. Any denial thereof is prone to bring about undesirable harmony. We also notice that the ultimate beneficiary in the entire alleged illegality i.e. Dr. M.M. Rao retired from the post of Director (Institute), ACRI. He would be certainly interested to see that the illegality is not known to others.

8. We are not inclined to interfere with the impugned order. The OA is, therefore, dismissed. The stay granted stands vacated. However, we leave it to the applicant to raise all his legal pleas in the course of the inquiry. We also make it clear that none of the observations made

here shall be taken as an expression of view, on merits of the matter. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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