

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.021/00898/2014

Date of Order :03.06.2019.

Between :

G.Govinda Rajulu, s/o G.Chinnappa,
Aged 47 yrs, Working as Technician-C
(Technical) in NIN, Hyderabad, r/o Q.No.C-11,
NIN Staff Quarters, NIN Campus, Jamai
Osmania Post, Tarnaka, Hyderabad-500 007.

...Applicant

And

1. Union of India, Department of Personnel &
Training, 3rd floor, Lok Nayak Bhawan,
Khan Market, New Delhi-110 003,
Rep., by its Secretary.

2. Union of India, M/o Health and Family Welfare,
Sastri Bhavan, New Delhio-110 011, rep., by its
Secretary.

3. The Director General,
Indian Council of Medical Research,
V.Ramalingaswamy Bhavan,
Ansari Nagar, New Delhi-110 029.

4. National Institute of Nutrition,
Indian Council of Medical Research,
Jamai-Osmania P.O., Hyderabad-500 007,
Rep., by its Director.

5. Dr.Kalpagam Polasa,
Retired Scientist-F, C/O NIN,
Hyderabad-500 007.

... Respondents

Counsel for the Applicants

... Mr.T.P.Acharya

Counsel for the Respondents

... Mrs.K.Rajitha, Sr.CGSC

... Mr.B.N.Sharma, SC for NIN

CORAM:

**THE HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MR.B.V.SUDHAKAR, MEMBER (ADMN.)**

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ORAL ORDER

(As per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman)

The applicant was working as Technician-C (Technical) in the National Institute of Nutrition (NIN). He was placed under suspension on 22.11.2013, on noticing certain acts of misconduct on his part. This was followed by the issuance of a charge memo dated 04.02.2014, wherein certain acts of misconduct were attributed to him. The applicant submitted a representation on 14.02.2014 in response to the same. Not satisfied with that, the Disciplinary Authority appointed an Inquiry Officer. However, the applicant did not participate in the inquiry. The Inquiry Officer submitted its report on 30.06.2014 holding that the articles of charge framed against the applicant are proved. Taking the same into account, the Disciplinary Authority passed the impugned order dated 30.07.2014 imposing the punishment of compulsory retirement on the applicant. The same is challenged in this OA.

2. The applicant contends that the officer, who passed the impugned order, was holding the post of Director on incharge basis and according to the procedure in vogue in the Government, the Incharge Officer cannot act

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as Disciplinary Authority. It is also stated that the officer by name Dr.Kalpagam Polasa continued after the age of superannuation and accordingly there existed a serious infirmity.

3. The applicant further contends that the Inquiry Officer was appointed contrary to the rules in vogue and though an objection was raised for his appointment, the Inquiry Officer proceeded with the inquiry and submitted its report. He contends that the allegations made against him are factually incorrect and that the punishment imposed upon him is totally disproportionate.

4. On behalf of the respondents 3 to 5, a detailed reply statement is filed. It is stated that the applicant acted in an unruly and indisciplined manner by using highly objectionable language, that too, against a lady Scientist in a Conference and he has branded the entire Organization in a very bad taste. It is stated that the officer, who initiated the proceedings and passed the impugned order, was very much competent since he was conferred with all powers of the Director. As regards the plea of crossing the age of superannuation, it is stated that the Board of Directors of the

Institution have re-employed her in a full fledged manner and the plea of the applicant cannot be accepted. Adverting to the plea as to the appointment of the Inquiry Officer, it is stated that a retired IAS officer, with vast experience was chosen for this purpose and the applicant raised all untenable objections and boycotted the entire proceedings. It is also stated that the allegations against the applicant are very serious in nature and that the punishment was imposed in consonance with the gravity of the articles of charge.

5. Heard Mr.T.P.Acharya, learned counsel for the Applicant and Mrs.K.Rajitha, learned Senior Standing Counsel appearing for Respondents 1 and 2 and Mr.Lakshman Rao representing Mr.B.N.Sharma, learned Standing Counsel for NIN.

6. The applicant was working as Technician-C (Technical) in the respondent-Organization and incidentally he was a union leader of the Association of the employees. He was placed under suspension through an order dated 22.11.2013. This was followed by issuance of a charge memo

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dated 04.02.2014. The charges levelled against the applicant read as under:

“Article-I

That Shri G.Govinda Rajulu, while functioning as Technician-C (Technical) at the National Institute of Nutrition (ICMR), Hyderabad, on 21.11.2013, indulged in grossly disrespectful behaviour with Dr.V.M.Katoch, Secretary, Department of Health Research and Director-General, Indian Council of Medical Research, Ministry of Health & Family Welfare, GOI, New Delhi, who came on official visit to the Institute, using provocative and extremely derogatory language with abusive tone and tenor in the presence of the Delegates and the Press disturbing the peace at the place of his employment. The said behaviour amounts to a misbehaviour unbecoming of a Government Servant in violation of Rule 3 (1) (iii) of CCS (Conduct) Rules, 1964.

Article-II

That Shri G.Govinda Rajulu, while functioning as Technician-C (Technical) at the National Institute of Nutrition (ICMR), Hyderabad, on 21.11.2013, interfered the discharge of the duties by Dr.R.Hemalatha, Scientist-E & Head of the Clinical Division of the Institute and Organizing Secretary of the 45th National Conference of the Nutrition Society of India (NSI) in an unruly manner in front of the Press, Participants and Delegates of the Conference using unparliamentary language and abused the Organizing Committee of NSI and all the staff members of the Institute in an extremely derogatory manner disturbing the peace at the place of his employment. The said behaviour amounts to a misbehaviour unbecoming of a Government Servant in violation of Rule 3 (1) (iii) of CCS (Conduct) Rules, 1964.

Article-III

That Shri G.Govinda Rajulu, while functioning as Technician-C (Technical) at the National Institute of Nutrition (ICMR), Hyderabad, on 21.11.2013, along with Shri M.Krupadanam, Technical Officer-A, interfered with the discharge of the duties by Dr.J.J.Babu, Scientist-E, by demanding that the conference bags should be distributed to all the permanent staff of the Institute and further insulted Dr.R.Hemalatha, the Organizing Secretary of NSI at NIN, Hyderabad, premises disturbing the peace at the place of his employment. Shri G.Govinda Rajulu also abused the Director, Office Bearers of the meeting and all the staff of NIN, using unparliamentary language. The said behaviour amounts to a misbehaviour unbecoming of a Government Servant in violation of Rule 3 (1) (iii) of CCS (Conduct) Rules, 1964.

Article-IV

That Shri G.Govinda Rajulu, while functioning as Technician-C (Technical) at the National Institute of Nutrition (ICMR), Hyderabad, on 21.11.2013, at around 11:30 a.m. along with Shri M.Krupadanam, Technical Officer-A, interfered with the discharge of the NSI exhibition duties by Dr.B.Dinesh Kumar, Scientist-E at NIN premises using abusive language threatening that they would not allow the exhibition to take place disturbing the peace at the place of his employment. The said behaviour amounts to a misbehaviour unbecoming of a Government Servant in violation of Rule 3 (1) (iii) of CCS (Conduct) Rules, 1964.

The applicant submitted a reply denying the charges levelled against him. Thereafter, the Disciplinary Authority passed an order appointing the Inquiry Officer, who in turn submitted a report holding that the charges are proved. Thereafter, an order of punishment directing the compulsory retirement of the applicant was passed.

7. The principal contention urged by the applicant is that the officer, who passed the impugned order i.e., Dr.Kalpagam Polasa, was not competent inasmuch as she was holding the post of Director on an incharge basis, and that she was continued beyond the age of superannuation.

8. The impugned order discloses that the officer was holding the post as Incharge. However, the applicant is not able to place before us any order, which disables a Director acting on an incharge basis, from initiating the

disciplinary proceedings or imposing punishment. When all the powers were conferred upon an officer, it makes no difference whether the arrangement was in a full fledged one or an incharge one. It is only when an order placing an officer incharge of a higher post confers limited powers, and excludes the one of disciplinary authority that such an inference can be drawn. The applicant did not file any such order before us.

9. It is true that the officer attained the age of superannuation on 30.04.2014. However, the governing body of the Indian Council of Medical Research (ICMR), the parent organization, passed a Resolution to re-employ the officer, vide order dated 29.04.2014, which reads as under:

“ORDER

Reference order No.V.25011/146/07-HR, dated 30th October, 2008, of Govt. of India, MOHFW, DHR, regarding approval of the President, Governing Body, ICMR, for re-employment of retired scientists beyond the age of the superannuation of 62 years.

The Director General, ICMR, with the approval of the President, Governing Body, ICMR, has decided to re-employ Dr.K.Polasa, Scientist-F, National Institute of Nutrition, Hyderabad, for a period of one year after her superannuation on 30.04.2014 from the services of the Council subject to the following terms & conditions. She will continue as Director-in-Charge, NIN till the post of Director, NIN is filled up.

1. The re-employment will be effective from the date of taking over of the charge.
2. The post vacated by Dr.K.Polasa, Scientist-F will not be filled during the period of her re-employment.
3. Her pay on re-employment will be fixed in accordance with the orders applicable to re-employ pensioners and her pay on re-employment plus pension should not exceed pay last drawn.

4. She will be required to submit half yearly progress report of the work done.

5. She will be responsible and continue work on the ongoing project viz., (a) To complete the ongoing translational research work related to development of two kits for detection of food pathogens. (b) To complete studies related to malnutrition in Karimnagar district. (c) to develop interventional programme in UP district to combat malnutrition, and (d) In addition, any job assigned by the Director-General, ICMR. She will continue as Scientist 'F' and Director-in-Charge, NIN, Hyderabad, till further orders. She will exercise all the delegated power vested with the Director-in-Charge from time to time.

6. She will not initiate any new project and will complete all the ongoing pending work.

7. She will have to fill agreement from as per the Annexure 1 & 2 (enclosed) immediately at the time of joining.

8. Her services can be terminated by giving one month notice at any time during the period of re-employment; Similarly, she can also give one month notice for leaving.

9. She may report her work to the Director General, ICMR.

Sd/-
(Joginder Pal)
Asstt. Director General(A)

Encls: As above.
Dr.K.Polasa,
Scientist-F & Director-in-Charge,
National Institute of Nutrition,
Jamai-Osmania,
Hyderabad-500 007."

The order is specific to the effect that the officer shall exercise all the delegated powers vested with the Director-in-Charge from time to time. Therefore, the contention raised by the applicant in this behalf cannot be accepted.

10. Another serious plea urged by the applicant is that the appointment of the Inquiry Officer was contrary to law. Obviously, faced with the nature of conduct of the applicant and his uncontrollable nature, the administration has chosen to entrust the task to a very experienced person and appointed a retired IAS officer, as Inquiry Officer. There is no provision of law, which prohibits such engagement.

11. The learned counsel for the Applicant has drawn our attention to the OM dated 26.09.2011 issued by the Government of India, Department of Personnel & Training, which is to the effect that the Group of Ministers had suggested that to the extent possible, the serving officers must be chosen as Inquiry Officers and Presenting Officers, and in important cases, they may request the CVC to appoint their CDI as Inquiry Officer. Another recommendation was that the CVC may maintain a panel of Inquiry Officers and Presenting Officers from amongst retired officers. There is nothing in this OM that prohibits appointment of Inquiry Officers from outside the cadre.

12. The applicant was so indiscriminate in his allegations that at one stage he addresses a letter to the Inquiry Officer to desist from issuing any

communication to him. That was followed by another letter, wherein he alleged criminal acts against the Director Incharge and the Inquiry Officer. He did not feel any limitation on his liberty to hurl allegations and abuses. Left with no alternative, the Inquiry Officer proceeded with the examination of witnesses and thereafter to submit his report. The Disciplinary Authority accepted the findings of the Inquiry Officer and imposed the punishment of compulsory retirement. We do not find any legal infirmity or factual error in the proceedings. The punishment cannot be treated as harsh for the reason that the applicant is not deprived of any retiral benefits. The only outcome thereof was that the Institution wanted to sever its relation with the applicant, even by permitting him to draw all the retiral benefits.

13. We, therefore, do not find any merit in this OA and the same is accordingly dismissed. There shall be no order as to costs.

Sd/-

(B.V.SUDHAKAR)
MEMBER (ADMN.)

Sd/-

(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN

Dated: this the 3rd day of June, 2019
Dictated in the Open Court

Dsn.