

LIBRARY

CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH  
KOLKATA

Original Application No. 1968/2010

Present : Hon'ble Mr Justice Vishnu Chandra Gupta, Judicial Member  
Hon'ble Ms Jaya Das Gupta, Administrative Member

Dr Dulal Chandra Pramanik  
.....Applicant

-Vs -

Chittaranjan National Cancer Institute, Kolkata  
.....Respondents

For the petitioner : Mr J.K. Lahiri, Counsel

For the respondents : Mr H.S. Chakraborty, Counsel

Date of Hearing : 07.03.2016

Date of Order : 31-03-2016.

ORDER

JUSTICE V. C. GUPTA, JM:

While preparing the judgment we find that the rules and regulations which has been annexed with the O.A by the respondents relating to Chittaranjan National Cancer Institute, Kolkata has a peculiar situation. Under Regulation 7 which deals with conduct, discipline and penalty contains a Schedule disclosing therein the appointing, disciplinary and appellate authority for various posts. Regulation 7 and the Schedule attached to the Bye-laws are reproduced herein below :

**"7. Conduct, discipline and penalty:**

Till appropriate rules are framed by the Governing Body the Central Civil Service (Conduct) Rules, 1964 as amended from time to time and part. Iv (Suspension), Part v (Penalties as disciplinary authorities), Part vi (Procedure for imposing implementing penalties)Part vii (Appeals) and Part viii [Review of the Central Civil Services (Classification and Control and Appeal)] Rules, 1965 as amended from time to time, shall apply mutatis mutandis to the employees of the Institute provided that for purposes of the bye-laws:-

(i) Group A, Group B, C and D posts shall correspond to the Central Civil Services Group A, B, C, and D posts respectively.



- (ii) Appointing authority, Disciplinary authority for the several posts in the Institute shall be as provided in the schedule appended to these Bye-laws.
- (iii) In respect of Central or State Government servants borrowed by the Institute provisions respective of Rule 20 and 21 of Central Civil Services (Classification, Control and Appeal) Rules, 1965 shall apply and Institute shall exercise the functions of the Centre or State Government, as the case may be for the purpose of the said rule aforesaid.
- (iv) For the purpose of these regulations except where specifically provided otherwise the Governing Body shall exercise the same powers in respect of the employees of this Institute as are exercisable by the President of the Union of India in respect of Government employees. Powers of the disciplinary authority shall be exercised by the appointing authority and the powers of the appellate authority shall be exercised by the next higher authority. Where the disciplinary authority is the Director, the appellate authority will be the Governing Body.
- (v) No consultation with Union Public Service Commission shall be necessary in any case.

The appointing, Disciplinary Appellate Authority for the various Posts in the Chittaranjan National Cancer Institute, Kolkata.

| Description of post                | Appointing authority | Authority competent to impose penalties and penalties which it may impose with reference to rule 11 of the Central Civil Services (Classification, Control & Appeal) Rules, 1965 |  | Appellate Authority        |
|------------------------------------|----------------------|--|--|----------------------------|
|                                    |                      | Disciplinary Authority   | Penalties under Rule 11 of Central Civil Services (Classification, Control & Appeal) Rules, 1965 |                            |
| <u>Group 'A' posts</u><br>Director | Governing Body       | Governing Body   | All  |                            |
| Other Gr. A posts                  | Governing Body       | a) Governing Body<br>b) Chairman   | All<br>(i) to (iv)   | Governing Body             |
| Group 'B' posts                    | Director             | a) Governing Body<br>b) Director   | All<br>(i) to (iv)   | Governing Body             |
| Group 'C' posts                    | Director             | Director   | All<br>(i) to (iv)   | Standing Finance Committee |
| Group 'D' posts                    | Director             | Director   | All<br>(i) to (iv)   | Standing Finance Committee |



On perusal of Schedule it reveals that in case in case of an employee of Group A post excluding Director, the appointing authority would be the Governing Body for all types of penalties provided in the Rule 11 of the CCS (CCA) Rules 1965. However, Chairman of the Governing Body would be the disciplinary authority, if punishment is provided under (i) & (iv) i.e. for minor penalties. The appellate authority was also shown to be the Governing Body. This is one more interesting feature that the Governing Body was also allowed to exercise those powers in respect of the employees which the President of Union of India in respect of Government employees exercises. It is also mentioned in Regulation 7 (iv) that power of the disciplinary authority shall be exercised by the appointing authority and the power of the appellate authority shall be exercised by the next higher authority. The Schedule shows that it is not in conformat with Regulation 7. Here in the case so far as the Government employee of Group A are concerned the appointing authority, the disciplinary authority, the appellate authority in Governing Body. Hence we are of the *prima facie* view that the Regulation 7 which also contains the Schedule is not in conformity with the principle of natural justice as well as CCS (CCA) Rules 1965 and also against the self contained Regulation 7. It is also not in conformity with the spirit of the Article 311 of the Constitution of India. Hence the Schedule thus appears to be struck down. But before doing so it would be necessary that the parties should be given an opportunity of being heard. As the aforesaid question is a vital one for deciding this matter, therefore, the decision on this issue i.e. validity of relevant rules along with the Schedule so far as Group A employees are concerned require consideration first before further proceeding in the matter.

Hence this matter be placed for hearing on the aforesaid preliminary question on 28.07.2016.

Registry is directed to inform the parties accordingly.

(Jaya Das Gupta)  
Administrative Member

(Justice V.C. Gupta)  
Judicial Member