

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL BENCH

OA 1247/2003

New Delhi, this the 31st day of March, 2004

Hon'ble Sh. Shanker Raju, Member (J)
Hon'ble Sh. Sarweshwar Jha, Member (A)

Satish Kumar, Nursing Attendant
Rank No.4360, Safdarjung Hospital.
...Applicant
(By Advocate Sh. K.K.Sharma)

V E R S U S

1. Director General
Health Services
Ministry of Health
Nirman Bhawan, New Delhi.
2. Principal & Medical Superintendent
Safdarjung Hospital, New Delhi - 110 029.
3. The Drawing & Disbursing Officer
Safdarjung Hospital, New Delhi - 29.
...Respondents

(By Advocate Sh. S.M.Arif)

O R D E R (ORAL)

Shri Shanker Raju,

Heard the parties. In the light of decision of Apex Court in Amar Nath Chaudhary v. Braithwaile and Company (2002 SCC (L&S) 290), an authority cannot act both as appellate as well as disciplinary authority.

2. In the present case, applicant who was Nursing Attendant impugns the removal order dated 15-3-2003 as well as appellate order upholding punishment dated 17-4-2003. At the outset we find that while imposing punishment, Head of the Office has sought the approval of Principal and Medical Supdt. who is a statutory appellate authority of the applicant. The subsequent order dated 17-4-2003 has also been passed by Principal and Medical Supdt. having powers conferred under Rule 27 (C) of the CCS (CCA) Rules, 1965.

3. In our considered view having approved the

dismissal, Principal and Medical Supdt. should not have acted as an appellate authority of the applicant.

4. On this count alone, having regard to the decision of the Apex Court, appellate order is nullity in law and is accordingly set aside.

5. OA is partly allowed. Applicant is at liberty to prefer an appeal to DGHS within a period of one month from the date of receipt of a copy of this order. Thereafter on receipt of appeal, appellate authority shall consider the appeal of the applicant and pass a detailed and speaking order dealing with his contentions within two months thereafter.

6. We make it clear that we have not dealt with other grounds raised in the OA. No costs.



(Sarweshwar Jha)
Member (A)
/Vikas/



(Shanker Raju)
Member (J)