

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH

O.A./351/1448/2019

Heard on 01.11.2019

Date of Order: 5.11.19

Coram: Hon'ble Ms.Bidisha Banerjee, Judicial Member

Dr. Jai Biswas @ Jai Lakshmi, W/o ShriMahadevBiswas, R/o DAG Colony, Port Blair, South Andaman, Pin-744101. Now posted as CMO (NFSG), G.B.Pant Hospital, Port Blair-744101.

.....Applicant

Vrs.

1. Union of India,
Service through the Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi-110011.

2. The Lieutenant Governor,
Andaman & Nicobar Islands,
Raj Niwas, Port Blair-744101

3. The Principal Secretary (Health),
Andaman & Nicobar Administration,
Secretariat, Port Blair-744101

4. The Secretary (Health),
Andaman & Nicobar Administration,
Secretariat, Port Blair-744101

5. The Director of Health Services,
Andaman & Nicobar Administration,
Port Blair, South Andaman-744101.

6. The Assistant Director (Admn.),
Directorate of Health Services,
Andaman & Nicobar Administration,
Port Blair-744101.

.....Respondents

For the Applicant(s): Mr.P.C.Das, Counsel

For the Respondent(s): Mr.R.Halder, Mr.P.K.Das, Counsel

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ORDER

Bidisha Banerjee, Member (J):

The applicant has preferred this O.A. to seek the following reliefs:

"a. To set aside and quash the order no. 4103 dated 28.09.2019 issued by the Assistant Director, (Admn), Directorate of Health Services, Port Blair.

b. To set aside and quash the order no. 13 dated 1st July, 2019 issued by the Secretary (Health), Andaman & Nicobar Administration.

c. To set aside and quash the warning issued by the Secretary (Health) dated 15th May, 2019.

d. To set aside the order dated 28.03.2019 issued by the Secretary (Health).

e. To pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice."

2. The order dated 27.09.2019 issued by the Assistant Director (Admn.) is an order whereby and whereunder the administration informed the applicant that consequent to forfeiture of entire past service vide administration's order dated 01.07.2019, pay of the applicant has been revised and fixed in the post of Medical Officer as under:

<u>Corresponding pay level as per 7th CPC</u>	<u>Level-10</u>
<i>Pay in the pay matrix</i>	<i>Rs. 56100/-</i>
<i>Date of effect</i>	<i>21.11.2018</i>
<i>Date of next increment</i>	<i>01.07.2019</i>
<i>Future Pay</i>	<i>Rs. 57800/-</i>

3. By the order dated 01.07.2019, the application of applicant, who had sought for leave for 60 days starting from 16.10.2018 vide his leave application dated 09.08.2018, was rejected directing the applicant to explain why she availed

leave without prior sanction and, consequently, such period of absence from 15.10.2018 to 20.11.2018 has been treated as un-authorized absence and has been treated with imposition of dies non for all purposes for increment, leave and pension constituting interruption of service and forfeiture of entire past service without any proceedings etc. The order dated 15.05.2019 is a letter by which a warning had been issued to the applicant.

4. At hearing, Ld. Counsel for the applicant would submit that in total non-consideration of her leave application, the authorities have proceeded to penalize the applicant, a reputed doctor of the organization, treating the period for which prior sanction was sought for as un-authorized absence, and she has been penalised with imposition of dies non without proceedings, forfeiture of past service without proceedings and also lowering down of his pay, which action is totally contrary to law and procedure.

Ld. Counsel would submit that applicant has already preferred an application dated 15.07.2019 for recalling the punishment before the Principal Secretary (Health), pending consideration of which the order dated 27.09.2019 ought to remain stayed.

5. Ld. Counsel for the respondents very fairly submitted that he would ensure that the order dated 27.09.2019, if not already effected, would not be effected till the disposal of the representation dated 15.07.2019 and that the O.A. can be disposed of with direction upon the Principal Secretary (Health) to dispose of the application dated 15.07.2019.

6. In the above view of the matter and for the ends of justice, this O.A. is disposed of at the admission stage itself, with consent of the parties, with a

direction upon the Principal Secretary (Health) to consider the application dated 15.07.2019 for recall of the impugned order, in accordance with law and pass an appropriate, reasoned and speaking order within a period of four weeks from the date of receipt of a copy of this order keeping in view that the lowering down of pay, forfeiture of past service and imposition of dies non without appropriate proceedings may not be permissible under law.

7. O.A. is accordingly disposed of. No costs.

(Bidisha Banerjee)
Member (J)

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