



CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A./100/3059/2018
M.A./100/3162/2019

New Delhi, this the 17th day of December, 2019

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

Dr. Surender Pal, aged about 58 years,
CMO (SAG) Previous M.S. BJRM Hospital, Group 'A'
S/o Late Shri Khem Chand Jayant,
R/o Flat No.001, Bhagwan Mahavir Hospital,
Pitampura, Delhi ...Applicant

(Through Shri M.K. Bhardwaj, Advocate)

Versus

1. Union of India
Through Secretary,
Ministry of Health & Family Welfare,
Nirman Bhawan, Maulana Azad Road
New Delhi-110011
2. Hon'ble Lt. Governor
Raj Niwas, Raj Niwas Marg,
Delhi-110054
3. Chief Secretary,
Govt. of NCT of Delhi, 8th Level
Delhi Secretariat, ITO
New Delhi-110002
4. Secretary
Ministry of Health & Family Welfare,
Govt. of NCT of Delhi
Delhi Secretariat, ITO,
New Delhi-110002



5. The Commissioner of Police,
Delhi Police Headquarters,
ITO, New Delhi ... Respondents

(Through Ms. Harvinder Oberoi, Advocate)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant is working as Medical Superintendent in the Government of NCT of Delhi. In the year 2017, he was working at Babu Jagjiwan Ram Memorial Hospital. A complaint was received from one senior medical officer against the applicant, alleging acts of sexual harassment. The administration got conducted a preliminary inquiry through a Committee and thereafter, a charge memo was issued to him on 13.11.2017 with two Articles of Charge.

2. The applicant contends that the very constitution of the Committee to conduct a preliminary inquiry was biased and the charge memo issued based on the report of that Committee cannot be countenanced. With this background, the applicant has filed the instant OA with the prayer to direct the respondents to review the decision for initiation of disciplinary proceedings. He has made a mention of initiation of criminal proceedings and discrepancies in the version in the two.



3. Respondents filed a detailed counter affidavit opposing the OA. It is stated that the charge memo was issued to the applicant on the basis of a complaint by a medical officer and with a view to ascertain the veracity of the complaint, a preliminary inquiry was got conducted. It is stated that the applicant will have opportunity to defend himself in the disciplinary inquiry.

4. We heard Shri M.K. Bhardwaj, for the applicant and Ms. Harvinder Oberoi, for the respondents.

5. The applicant was issued a charge memo dated 30.11.2017. The Articles of Charge read as under:

“Article-I”

That the said Dr. Surender Pal, while working as Medical Superintendent in Babu Jagjeevan Ram Memorial Hospital, Govt. of NCT of Delhi, during the year 2017, committed gross misconduct, involving moral turpitude, in as much as he sexually harassed his subordinate Dr. Seema, Sr. Medical Officer in hospital premises.

By the above acts of omission & commission, the aforesaid Dr. Surender Pal exhibited gross immoral misconduct, which is unbecoming of a Government servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964.

Article-II

That the said Dr. Surender Pal, during the aforesaid period and while functioning in the aforesaid post, committed gross misconduct in as much as he brought disrepute to the image of government doctors in the eyes of general public.

By the above acts of omission & commission, the aforesaid Dr. Surender Pal exhibited gross immoral misconduct, which is unbecoming of a Government servant, thereby violating the provisions of Rule 3 of CCS (Conduct) Rules, 1964.”



In the Statement of Imputation, reference is made to the contents of the complaint received against the applicant and steps taken thereon.

6. Though the applicant states that the constitution of the Sexual Harassment Prevention Committee of the hospital was not proper, we are not inclined to accept the same. The role assigned to that Committee was only to conduct a preliminary inquiry. The respondents wanted to ascertain the correctness of the complaint made, before initiation of disciplinary proceedings.

7. The applicant contends that the doctor who complained against him had a grudge on account of the fact that she had been shifted from one department to another. This is not the stage to address such an issue. The applicant will have full opportunity to cross examine the witnesses during the course of the inquiry.

8. We do not find any illegality in the charge memo. The OA is dismissed. It is needless to mention that the Disciplinary Authority shall ensure that the Inquiry Officer



shall be the one, who is superior to the applicant. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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