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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 5374/2019 & C.M. No.23645/2019**

SH. D.S. MEENA

..... Petitioner

Through: Mr.Rajesh Srivastava &
Ms.Shubhangi Rathore, Advs.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr.Subhash Gosai with Mr.Amit Kr.
Dogra, Advs. for R-1.
Mr.Jasbir Bidhuri, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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22.05.2019

Issue notice. Learned counsel for the respondent nos.1 and 2 accept notice.

The petitioner has assailed the order dated 30.04.2019 passed by the Central Administrative Tribunal, New Delhi in OA No.100/166/2017 whereby the Tribunal has rejected the petitioner's original application wherein he had assailed the initiation of the departmental proceedings against him at the fag end of his career. The charge memo in relation to the alleged misconduct of the year 2002 was issued to him on 28.12.2016 i.e. just on the eve of his retirement when he was due to retire on 31.12.2016. The petitioner had claimed that the charge-sheet issued to him at the fag end of his



career was highly belated. The Articles of Charge framed against the petitioner were as follows:-

"Article-I

That while Mr. D.S. Meena was working as Assistant Director (Coordination) at CCRAS Hqrs., on 11-06-2002 in File No.2-5/2001-CCRAS/Estt./Vol.I accepted and forwarded to Deputy Director (Admin.) a note submitted by Sh. R.N. Sharma, Assistant with statement that out of 3 posts to be filled by promotion from Research Officer (Ayurveda) to Assistant Director (Ayurveda) 2 posts pertains to UR and one post is reserved for ST category. As the rule denies reservation in promotion within Group-A, there cannot be reservation in promotion from the post of Research Officer (Ayurveda) to Assistant Director (Ayurveda) both being Group - A posts. Thus, Mr. D.S. Meena failed to point out the correct rule position before forwarding the note to higher authorities and misled the authorities.

Mr. D.S. Meena has acted in a manner unbecoming of a public servant by doing above, which also exhibits his doubtful integrity. He has therefore, contravened the rule 3 (1) (i) and (iii) of CCS (Conduct) Rule 1964.

Article-II

That while Mr. D.S. Meena was working as Assistant Director (Coordination) at CCRAS Hqrs., in the same file on 17-06-2002 accepted and forwarded to Deputy Director (Admin) the note and an U.O. note submitted by Sh. R.K. Mahapatra, Assistant mentioning about reservation in promotion from Research Officer (Ayurveda) to Assistant Director (Ayurveda). As the



rule denies reservation in promotion within ,Group-A, there is no reservation in promotion from the post of Research Officer (Ayurveda) to Assistant Director (Ayurveda). Thus Mr. D.S. Meena failed to point out the correct rule position for second time before forwarding the note and U.O. note to higher authorities and misled the authorities. This led to forfeiture of legitimate right of promotion of officer senior and deserving and undue promotion of Dr. M.M. Rao who was much junior and at SI.No.12 of the seniority list.

Mr. D.S. Meena has acted in a manner unbecoming of a public servant by doing above, which also exhibits his doubtful integrity. He has, therefore, contravened the rule 3 (1) (i) and (iii) of CCS (Conduct) Rule 1964."

The stand taken by the respondents before the Tribunal was that a complaint in relation to the alleged misconduct was received by them in the year 2014 and it is only then that the misconduct of the petitioner was discovered. The respondents have however, not explained in their reply before the Tribunal as to why the alleged misconduct of the petitioner was not discovered in the year 2002 itself specially since it is claimed that the petitioner had wrongly stated that out of three posts of Assistant Director (Ayurveda), two posts were unreserved and one post was reserved for ST category, when, as a matter of fact, all the three posts were unreserved. It is not explained how the administration did not notice that all the three posts were unreserved for all these years when the same was a matter of record.

Prima facie, we see merit in the petitioner's submission.



Accordingly, while issuing notice, we stay the charge-sheet dated 28.12.2016 issued to the petitioner. Respondents shall file their reply within eight weeks. Rejoinder, if any, be filed before the next date.

List before the Registrar (Appellate) on 19.08.2019.

List before the Court on 09.12.2019.

VIPIN SANGHI, J

REKHA PALLI, J

MAY 22, 2019
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