

(2019) 01 DEL CK 0434

In the Delhi High Court

Case No : Civil Writ Petition No. 972 Of 2019

AIIMS And Ors

APPELLANT

Vs

Sneh Lata

RESPONDENT

Date of Decision : 30-01-2019

Acts Referred:

Central Civil Services (Classification, Control and Appeal) Rules, 1965 — Rule 15
All India Institute Of Medical Sciences Regulations, 1999 — Regulation 32(2)

Citation : (2019) 01 DEL CK 0434

Hon'ble Judges : Vipin Sanghi, J;Prateek Jalan, J

Bench : Division Bench

Advocate : Dushyant Parashar, Manu Parashar

Final Decision : Dismissed

Judgement

Vipin Sanghi, J

C.M. No. 4356/2019

Exemption allowed, subject to all just exceptions. The application stands disposed of.

W.P.(C) 972/2019 & C.M. No. 4355/2019

1. The petitioner AIIMS has preferred the present petition to assail the order dated 26.09.2018 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (the Tribunal) in O.A. No. 1120/2014. The respondent had preferred the said Original Application to assail the inquiry proceedings against her and the punishment of compulsory retirement inflicted upon her. The first of the two charges leveled against the respondent were that she was unauthorisedly absent from duty from 13.12.2018 for a period of 15 days. The second charge related to her taking away the keys of the cupboards of casualty OT and not returning the same before returning to her duty. The said cupboard contained important equipments and commodities used for day to day purpose in the

casualty O.T. and her conduct led to inconvenience.

2. The inquiry officer found her guilty of the charges leveled against her. The disciplinary authority passed the order of penalty on 09.08.2011. The relevant portion of the order passed by the disciplinary authority reads as follows:

"The inquiry Authority after conducting the Inquiry has submitted the Inquiry report and the charges framed against Ms. Sneh Lata Assistant Nursing Superintendent has been proved.

And whereas after having gone through the report of the Inquiry Officer, submission made by Ms. Sneh Lata, Assistant Nursing Superintendent (A.N.S.) and considering the evidence on record and the facts and circumstances of the cause and taking all the relevant facts into consideration, the President, ATMS for good and sufficient reasons has come to the conclusion of imposition of penalty of compulsory retirement from service Ms. Sneh Lata, Assistant Nursing Superintendent to meet the ends of Justice.

Now, Therefore, the President, AIIMS in exercise of the powers vested as the Disciplinary Authority vide Rule 15 of the CCS (CCA) Rules, 1965 read with Regulation 32 (2) of the AIIMS Regulations, 1999(as amended) hereby imposes the penalty; of compulsory retirement from service on Ms. Sneh Lata, Assistant Nursing Superintendent with immediate effect."

3. Her departmental appeal was rejected by the appellate authority on 14.10.2013. A perusal of the appellate order shows that the Director General of Health Services expressed reservations about the quantum of penalty imposed on the respondent for her unauthorized absence for 14 days. From the order it also appears that the medical superintendent Dr. D.K. Sharma also gave inputs, inter alia, to the effect that her behavior in the casualty area was not in conformity with professional ethics, adversely affecting the patient care service. He also informed that the respondent did not vacate the hostel while all the nurses vacated the premises, and kept two rooms under her possession unauthorisedly.

4. She consequently approached the Tribunal. The Tribunal has found that the penalty of compulsory retirement imposed upon the respondent was highly disproportionate looking to the alleged misconduct. The Tribunal also found that the order passed by the disciplinary authority was not reasoned and the appellate order was vitiated on account of extraneous considerations.

5. The Tribunal has, therefore, disposed of the Original Application setting aside the punishment order dated 09.08.2012 as well as the appellate order dated 14.10.2013. It has been left open to the disciplinary authority to pass a speaking order imposing any other punishment other than the one which would have the effect of putting an end to the service of the respondent in the organization. The respondent has been directed to be reinstated in service and the treatment to be accorded to the period between the date of imposition of punishment, and the

date of reinstatement shall depend upon the order which the disciplinary authority may pass.

6. Learned counsel for the petitioner has sought to refer to the inquiry report, wherein the inquiry officer in his conclusions takes note of aspects which were never put to the respondent in the charge sheet.

7. On a perusal of the order imposing penalty as well as the appellate order, it is absolutely clear that the order imposing penalty is unreasoned and the order passed by the appellate authority is based on extraneous considerations since, even those aspects appear to have gone into the decision taken to dismiss the appeal, which were never put to the respondent in the charge sheet issued to her.

8. We are dismayed that the petitioner has even chosen to assail the impugned order, which appears to be completely balanced.

9. We direct that the order that the petitioner may now pass, should be a reasoned and considered, and the competent authority should act objectively. Only those aspects, on which the respondent was found guilty after grant of opportunity to her to meet the charge should form the basis of the punishment.

10. We, therefore, find no merit in this petition and dismiss the same.