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

+ W.P.(C) 7869/2015

% *Judgment dated 19th August, 2015*

MALTI GAUTAM Petitioner

Through : Petitioner in person.

versus

UNION OF INDIA AND ANR. Respondents

Through : Mr.Arun Bhardwaj, CGSC along with
Ms.Gunjan Bansal and Mr.Pradeep
Kumar Sharma, Sharma, Advs.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

CM APPL. 15735/2014.

1. Exemption allowed subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 7869/2015 & CM APPL. 15734/2015

3. Present writ petition has been filed by the petitioner under Article 226 of the Constitution of India seeking a direction to quash the Order dated 15.7.2014 passed by Central Administrative Tribunal, Principal Bench, (hereinafter referred to as "*the Tribunal*") in O.A.No.2181/2014. The petitioner also prays for quashing the charge sheet dated 30.4.2014 with all consequential benefits.
4. The brief facts of the case, according to the petitioner, are that she was

initially appointed as a Medical Officer in Central Health Services (in short CHS) on 2.1.1984 and was promoted from time to time. The petitioner is stated to have been working as a Chief Medical Officer (NFSG) w.e.f. 5.4.2002. While posted in CGHS, Noida, the petitioner was transferred to Cltri Chengalpattu vide Order dated 20.7.2009. The petitioner challenged the said transfer order by filing O.A.No.2649/2009 before the Tribunal. The Tribunal vide Order dated 13.7.2010, while allowing the O.A., set aside the transfer order with the directions to the respondents to place the matter before Transfer Committee and pass a reasoned order. The respondents thereafter passed the order dated 23.8.2010 and reiterated their stand thereby transferring the petitioner to Cltri Chengalpattu. The order dated 23.8.2010 was challenged by the petitioner by filing O.A.No.3273/2010. The Tribunal, vide its Order dated 28.3.2011, directed the Secretary, Ministry of Health and Family Welfare, to consider the representation, which was to be made by the petitioner, by passing a speaking order and her transfer was stayed. The petitioner thereafter made a representation to the respondents, which was considered by the respondents, and the petitioner was posted at CGHS, Darya Ganj, but subsequently within six months she was transferred to Rural Health Training Centre, Najafgarh.

5. The petitioner alleges that the respondents in an arbitrary and malafide manner issued a charge sheet under Rule 14 of the CCS (CCA) Rules, 1965, vide Memorandum dated 6.3.2013 alleging that *“the petitioner while working as Chief Medical Officer (NFSC) at Rural Health Training Centre, Najafgarh, New Delhi, has failed to maintain devotion to duty and acted in a manner unbecoming of Government servant in as much as she availed casual leave in excess of permissible limits and refused to see the patients, including staff patients, referred to her. She was also indulged*

into such acts as misbehaviour with the office staff and wilful non-compliance of the orders issued by the senior officers, which amounts to insubordination”.

6. Against the aforesaid charge sheet dated 6.3.2013 the petitioner filed O.A.1216/2013 before the Tribunal raising various grounds including the grounds that the charge sheet issued by the competent authority was vague. The O.A. was partly allowed by the Tribunal with the direction to the respondents to take further course of action in the matter, after considering the written statement of defence of the petitioner, as per rules and in accordance with law. Against the aforesaid order, the petitioner filed W.P.(C)6793/2013, which was allowed by the Delhi High Court vide Order dated 25.9.2013.
7. The petitioner, who appears in person, submits that the High Court in the writ petition, being W.P.(C)No.6793/2013, filed by her, had allowed the writ petition and quashed not only the order dated 25.9.2013 dismissing O.A.No.1216/2013 but quashed the charge sheet issued to the petitioner under Memorandum dated 6.3.2013 being vague. However, leave was granted to the Department to issue a fresh charge sheet after curing the defects in the charge sheet, which stands quashed. It is further submitted by the petitioner that a fresh charge sheet, which has now been issued by the respondents, is identical to the charge sheet issued to her, which was a subject matter of W.P.(C) 6793/2013, which already stands quashed by the High Court.
8. Mr.Bhardwaj, learned counsel for the respondents, enters appearance on an advance copy and submits that although statement of article of charge is identical yet the statement of imputations have been elaborated.
9. During the course of hearing, the petitioner has also stated that she is being repeatedly harassed by the Department, which fact is disputed by

the counsel for the respondents, who submits that the conduct and misbehaviour of the petitioner has led to the issuance of the charge sheet.

10. We have heard the petitioner and counsel for the respondents and also perused the impugned order passed by the Tribunal, and various other orders relied upon by the parties including the Order dated 29.10.2013 passed by a Division Bench of this Court in W.P.(C) 6793/2013.
11. Para 6 to 8 of the Order dated 29.10.2013 passed by the Division Bench in W.P.(C) 6793/2013 read as under:

“6. That apart, what were the acts constituting misbehavior. They were directed against which office staff. When was the offending act committed. Where was the offending act committed. Nothing being stated makes a charge vague. Unfortunately, the statement of imputation also does not throw any light.

7. We find that the issue of the charge sheet being vague in the Original Application filed before the Central Administrative Tribunal but has not been dealt with in the impugned decision. We allow the Original Application and quash not only the impugned order dated September 25, 2013 dismissing OA No.1216/2013 but we even allow the said Original Application and quash the charge sheet issued to the petitioner under cover of a memorandum dated March 06, 2013.

8. Since the charge sheet has been quashed on the ground of being vague it would be open to the department to issue a fresh charge sheet after curing the defect in the charge sheet which we have quashed.”

12. We have compared the article of charge, which was subject matter of W.P.(C) 6793/2013 and the article of charge framed now. The same are identical.
13. Having regard to the observations made by the Division Bench in W.P.(C)6793/2013 and more particularly that the charge sheet was

quashed, we allow the present writ petition and quash the second charge sheet as well on the ground that it is identical to the first charge sheet issued to the petitioner, which already stands quashed by the Division Bench vide Order dated 29.10.2014. We may, however, notice that the imputations are more detailed than the previous imputations, which were issued to the petitioner along with the first charge sheet. It would be open for the Department to issue a fresh charge sheet after curing the defects in the second charge sheet.

14. At this stage, the petitioner submits that she would approach the Secretary, Health and Family Welfare Department, within one week from today and explain her stand and wherever necessary will also make suitable amends from her side to put a quietus to the matter.
15. We hope that in case the petitioner approaches the Secretary, Health and Family Welfare Department, he would look into the matter dispassionately and expeditiously.
16. Writ petition and application stand disposed of in view of above.
17. DASTI to the parties.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 19, 2015

msr