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

+ W.P.(C) 10086/2015, CM APPL. No. 24712/2015

% *Date of Judgment : 28.10.2015*

DR. J L CHAUDHARY Petitioner
Through : Mr. Ashish Nischal, Advocate.

versus

NORTH DELHI MUNICIPAL CORPORATION Respondent
Through : Ms. Biji Rajesh, Advocate for Mr. Gaurang
Kanth, Advocate for NDMC/R-1

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G. S. SISTANI, J (ORAL)

CM APPL. No. 24712/2015

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

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3. Challenge in this writ petition is to the order passed by the Central Administrative Tribunal dated 06.07.2015.
4. The petitioner was posted in the Public Health Cadre since 01.04.2004, however, subsequently he was formerly inducted in the Public Health Cadre w.e.f. 01.07.2007. On 30.04.2007, the respondent/Corporation issued a Corrigendum to the office order dated 18.12.2006 wherein the age of superannuation of a Doctor in the Public Health Sub-Cadre was enhanced from 60 years to 62 years. The petitioner, however, made a representation on 26.12.2011

to the Corporation with a request that his name be deleted from the Public Health Cadre to General Duty Cadre. This request of the petitioner was accepted on 01.02.2012 and petitioner was allowed to go back to General Duty Cadre from Public Health Cadre. It is, however, the case of the petitioner that despite his request for deleting his name from the Public Health Cadre, he continued to perform his duties in the Public Health Cadre as Chief Medical Officer (CMO) Epidemiologist, City Zone upto his date of superannuation i.e. 28.02.2014 at the age of 60 years. The petitioner made a representation to the respondent requesting the respondent to permit him to perform his duties upto the age of 62 years. As the representation was rejected, petitioner filed an OA which was dismissed.

5. We have heard the learned counsel for the petitioner.
6. Learned Tribunal has considered the submissions made by the counsel for the petitioner which have been reiterated before us today. Tribunal has taken into consideration that the petitioner had made a specific request by an application dated 26.12.2011 for reversion to the General Duty Cadre and his name stood deleted as per the order of MCD, which reads as under:

“ Dr. J. L. Chaudhary had opted out the Public Health Cadre and requested to be reverted back to the GD Cadre vide his application dated 26.12.2011. The Competent Authority allowed his reversion to the GD Cadre Vide Office Order No. A.O. (Estt.)-IV/CED(M)/H.C.(M)III/(Medical)/2012/380 dated 01-Feb-2012. Therefore, name of Dr. J. L. Chaudhary is hereby, deleted from the above recommendation of placement/promotion of

*Medical Officer of Public Health Cadre.
This issues with the approval of the competent
authority.”*

7. The Corporation thereafter issued an office order dated 01.02.2012, which reads as under:

“Dr. J. L. Chaudhary/Zonal Epidemiologist/City Zone vide his representation dated 26.12.2011 has opted out of Public Health Cadre and has requested to delete his name from the list of GDMO I PH Cadre. He has further requested to grant him financial upgradation for the post of CMO (NFSG) Rs.14,300-18,300 w.e.f. 02/08/2009.

2. A meeting of a Screening Committee was held on 21.04.2011 to consider the case of medical officers for induction in the Public Health Cadre as per the provisions of the existing Recruitment Regulations (RRs). In the said meeting, the case of Dr. J. L. Chaudhary was also considered for induction into the Public Health Cadre as GDMC I PH w.e.f. 01/07/2007. Accordingly, he was inducted in the Public Health Cadre consequent upon obtaining approval of the competent authority and orders issued vide Office Order No. Supdt.(M)/H.C. (M)-III/CED (M.Cell)/2011/2677 dated 10/06/2011.”

8. It is not in dispute that from the year 2011 till the date of superannuation, the petitioner did not make any attempt to seek recall of the request or the order dated 01.02.2012 which was passed by the respondent consequent upon the request of the petitioner. There is no explanation on the part of the petitioner as to why such a request was not withdrawn.
9. Since, the petitioner himself has made a request for reversion to the General Duty Cadre, the petitioner was well aware of the implication of such reversion and after superannuation, the petitioner cannot be

now permitted to withdraw his application which had attained finality during the period when he was in service. We find no infirmity in the orders passed by the Central Administrative. Resultantly, the writ petition is dismissed. No costs.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

OCTOBER 28, 2015 / gr