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

+ **W.P.(C) 10040/2024**

DR UFANA RIAZ

.....Petitioner

Through: Mr. Srijan Sinha and Mr. Gourang
Dubey, Advocates

versus

JAMIA MILIA ISLAMIA AND ORS

.....Respondents

Through: Mr. Pritish Sabharwal, Standing
Counsel for R-1.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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23.07.2024

CM APPLs. 41042/2024 and 41043/2024 (exemptions)

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

W.P.(C) 10040/2024 and CM APPL. 41044/2024 (interim relief)

3. This writ petition has been preferred on behalf of the Petitioner, who is working as Assistant Professor in Respondent No. 1/University, laying a challenge to the pending disciplinary proceedings including the show cause notice dated 12.09.2022 and the Office Order dated 29.11.2022 on multiple grounds.
4. Petitioner avers that she joined the University in 2009 and has been rendering dedicated and unblemished service. On 31.05.2022, Petitioner received an appointment letter from North Carolina Central University, United States of America, to join as an Assistant Professor for two years. Accordingly, Petitioner applied for extraordinary leave ('EOL') on



21.07.2022 as per prescribed procedure under Ordinance V, Part B, Regulation 14 to Jamia Milia Islamia Act, 1988 ('JMI Act'), which was duly acknowledged by the Vice Chancellor and recommended by both the Dean and the Head of the Department. However, the application was neither approved formally nor rejected and Petitioner joined the assignment in August, 2022. A show cause notice was issued on 12.09.2022 by the Registrar of the University alleging absence without prior approval, without jurisdiction to do so as per Statute 5(4)(i) of the JMI Act to which the Petitioner sent her response. By an order dated 29.11.2022, four-member Committee was constituted to inquire into the allegations contained in the show cause notice which was again issued by the Registrar. Petitioner was called upon to appear before the Committee in January, 2023 but no statements were recorded and no report has been furnished till date.

5. For the first time, disciplinary action was initiated pursuant to the decision of the Executive Committee taken on 23.02.2023. On 31.03.2023, Memorandum of Charge was issued and Petitioner was given 10 days' time to furnish written statement of defence and accept or deny the charges. On 06.04.2023, University advertised the Petitioner's post of Assistant Professor in the Department of Chemistry which virtually amounted to suspension/termination of her services. On 08.04.2023, Petitioner was shifted to her former faculty against which she objected. On 09.04.2023, Petitioner submitted a detailed point-wise response to the Memorandum of Charge. On 26.04.2023, Inquiry Officer was appointed to prolong the pending investigations/inquiry and while the Inquiry Officer was directed to furnish his report within two months, there was no progress in the inquiry.



6. It is averred that on 02.05.2023, Petitioner requested for approving her EOL application, which was pending but there was no response. University extended the time for completion of the inquiry through a letter dated 05.06.2023 and while the witnesses were examined, no information was given to the Petitioner of the same. Statements of witnesses were also denied. On 14.08.2023, Petitioner was called to attend the inquiry and proceedings were conducted but nothing is known thereafter.

7. Learned counsel for the Petitioner argues that the initiation of the disciplinary proceedings is *per se* bad and without jurisdiction. The allegations are false as the Petitioner was never unauthorizedly absent. On receiving letter of two years assignment in USA, she had duly applied for EOL but the application was neither rejected nor allowed and having no option, she left to join North Carolina Central University for the two years assignment. Since the Memorandum of Charge is based on the show cause notice, the same is also without jurisdiction and the inquiry should not proceed. It is also urged that the inquiry is being unduly prolonged as firstly the show cause notice was issued followed by inquiry by a four-members Committee and finally, the issuance of Memorandum of Charge but till date no report has been rendered. It is submitted that Petitioner has through e-mail dated 10.07.2024 applied for EOL for 2 years 10 months 3 weeks and 10 days from 08.08.2024 to 05.07.2027 in the required format with an invitation letter but the application is still pending and therefore, the pendency of the inquiry is prejudicing the Petitioner even on this score.

8. Issue notice.

9. Mr. Prithish Sabharwal, learned Standing Counsel accepts notice on



behalf of Respondent No. 1 and submits that the law is well-settled that Courts should not interfere in the inquiry proceedings at the stage of charge sheet or show cause notice and permit the inquiry to proceed and the interference can be only on limited parameters. It is further submitted that it is wrong for the Petitioner to contend that multiple inquiries are being held as for the first time, a Memorandum of Charge has been issued only on 31.03.2023. It is incorrect for the Petitioner to argue that she was not on unauthorized leave as the facts would themselves reveal that when the Petitioner applied for EOL, without the leave being sanctioned, she left for USA. Even otherwise, this is the subject matter of the inquiry proceedings and it is not open for the Courts at this stage to go into the truth or otherwise of the allegations. It is submitted that principles of natural justice and all required procedures are being followed by the Inquiry Officer and there is no intent to delay.

10. Heard learned counsels for the parties.

11. It is a settled law, as rightly argued by learned counsel for Respondent No. 1 that the Courts should not interfere in the disciplinary proceedings at the stage of charge sheet, save and except, on certain limited parameters such as where the charge sheet is without jurisdiction and/or the charges are so vague that they cannot be ultimately sustained. Holistic reading of the writ petition shows that the Petitioner is calling upon the Court at the stage of the charge sheet to go into the truth of the allegations, which are the subject matter of the charge sheet and set aside the inquiry proceedings holding that the Petitioner was not unauthorizedly absent, which cannot be done at this stage. Insofar as the authority of the Registrar, JMI to issue the show cause notice is concerned, suffice would it be to note that the show



cause notice was issued on 12.09.2022 calling upon the Petitioner to explain why disciplinary action be not taken against her for unauthorized absence from duties and leaving station without permission. Perusal of the notice shows that the Registrar had categorically mentioned therein that the conduct had been looked into by the Competent Authority and the Registrar was only directed to issue the show cause notice as a signatory on the said directions. In any case, thereafter, Memorandum of Charge was issued on 31.03.2023 on the direction of the Competent Authority pursuant to a decision by the Executive Council of the University taken in the meeting dated 22.02.2023, minutes of which have been placed on record by the Petitioner herself and the disciplinary proceedings were initiated pursuant to this Memorandum of Charge. Therefore, assuming for the sake of argument, even if there was any jurisdictional error in the issuance of show cause notice, the same is inconsequential. Be that as it may, all these objections are left open to be taken by the Petitioner at the appropriate stage but on this ground alone, the inquiry proceedings cannot be stalled.

12. There is, however, merit in the contention that Petitioner is entitled to an expeditious conclusion of the inquiry proceedings as prolonged disciplinary action does impact the career of an employee in several ways. To address this concern, Mr. Sabharwal, on instructions, submits that the inquiry proceedings will be concluded positively within three months from today. This assurance is taken on record.

13. Accordingly, writ petition is disposed of, leaving it open to the Petitioner to raise all objections and contentions raised in the present petition in the inquiry proceedings and subsequent thereto at the appropriate stage. As assured by the University, inquiry proceedings shall be concluded



expeditiously and not later than three months from today. It is made clear that this Court has not expressed any opinion on the merits of the case.

14. Pending application also stands disposed of.

JYOTI SINGH, J

JULY 23, 2024/kks/shivam