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

+ **W.P.(C) 10789/2025**

RAMA CHANDRA NAYAK

.....Petitioner

Through: Mr. Rana Ranjit Singh, Mr. Suraj
Prakash Pandey, Mr. Vivek Kumar
Singh and Mr. Ravish Singh,
Advocates.

versus

**CENTRAL MEDICAL SERVICES SOCIETY
& ORS.**

.....Respondents

Through: Mr. Krishna Kumar Sharma, Mr.
Shashwat Krishna, Mr. Rohit
Singh, Ms. Aishwarya Gogna,
Advocates for CMSS with Mr.
Shivam Pandey, EA (Legal).

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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03.09.2025

CM APPL. 55522/2025 (stay) & W.P.(C) 10789/2025

1. The petitioner was serving in respondent No. 1 – Central Medical Services Society [“CMSS”] as General Manager (Administration) since 19.05.2016. By way of the captioned writ petition, he has challenged his Annual Performance Appraisal Report [“APAR”] grading for the period 2023-24, and has sought extension of his service in terms of Rules 5 and 9 of the CMSS Bye-Laws.
2. It is the petitioner’s contention that he was initially appointed on contract for a period of five years, and his contract was extended from



time to time, lastly from 19.05.2023 to 18.05.2024. The contract was not extended thereafter. The petitioner further contends that his contract was extendable, subject to satisfactory performance in terms of Rule 9 of the CMSS Bye-Laws, but was not extended due to the unsatisfactory APAR for the year 2023-24.

3. By order dated 25.07.2025, notice was issued in the present writ petition, and the respondents were required to inform the Court of the likely timeframe for disposal of the petitioner's representation/appeal against the impugned APAR.

4. The petitioner has now filed this application for the following reliefs:

“a) Grant an interim stay restraining the Respondents, their agents, servants, or any person acting on their behalf, from appointing or continuing the appointment of any candidate to the post of General Manager (Administration), CMSS, in place of the Petitioner, pending final disposal of the present writ petition;

b) Pass such other and further orders as this Hon'ble Court may deem fit and proper in the interest of justice and equity.”

5. It is the petitioner's contention in the application that any recruitment conducted by CMSS to the post of General Manager (Administration), would be prejudicial to the relief he seeks in the writ petition. Paragraph 3 of the application reads as follows:

“3. That the Respondents have either initiated or are imminently poised to effectuate appointment of a new incumbent to the said post, which, if permitted to proceed, would cause irreparable and irreversible injury to the Petitioner, rendering the relief sought in the writ petition nugatory and infructuous.”

6. I am informed by Mr. Krishna Kumar Sharma, learned counsel for the respondents, that the petitioner has, in fact, participated in the recruitment process and appeared for an interview on 28.08.2025, but has



filed this application dated 29.08.2025, without disclosing these facts to the Court. He states that the result of the selection process was also declared the same day. Mr. Rana Ranjit Singh, learned counsel for the petitioner, accepts that the petitioner participated in the recruitment process and appeared in an interview on 28.08.2025.

7. Upon consideration of the averments in the application, it is evident that the petitioner has suppressed these material facts from the Court. The averment quoted above gives the clear impression that the petitioner is not categorically aware of whether the process for appointment of a new incumbent has been initiated, or the stage at which it is presently pending. To the contrary, the petitioner admittedly participated in the recruitment process of his own volition, and appeared for the interview on 28.08.2025. It appears that he has filed this application only after declaration of the result of the selection.

8. The fact that the petitioner participated in the recruitment process, and that the result has been declared, is certainly material. Suppression of a material fact of this nature disentitles the petitioner to equitable and discretionary relief under Article 226 of the Constitution. In this connection, reference may be made to the judgments of the Supreme Court *inter alia* in *Prestige Lights Ltd. v. State Bank of India* [(2007) 8 SCC 449] [hereinafter, “*Prestige Lights*”] and *K.D. Sharma v. Steel Authority of India Limited and Others* [(2008) 12 SCC 481]. In *Prestige Lights*, the Court held as follows:

*“33. It is thus clear that though the appellant Company had approached the High Court under Article 226 of the Constitution, it had not candidly stated all the facts to the Court. **The High Court is exercising discretionary and extraordinary jurisdiction under Article 226 of the Constitution. Over and above, a court of law is also a court***



of equity. It is, therefore, of utmost necessity that when a party approaches a High Court, he must place all the facts before the Court without any reservation. If there is suppression of material facts on the part of the applicant or twisted facts have been placed before the Court, the writ court may refuse to entertain the petition and dismiss it without entering into merits of the matter.”

[Emphasis supplied.]

9. The entire case of the petitioner in the writ petition is that a review of his APAR would entitle him to an extension of his pre-existing contract. However, he has participated in a fresh recruitment process initiated by CMSS. He cannot assail the process after having participated in it voluntarily. As the only consequence of the upgradation of the petitioner's APAR would have been with regard to his claim for extension of contract, that remedy has now been rendered infructuous.

10. The writ petition is, therefore, taken on board, and dismissed, alongwith the pending application. As a consequence of the misrepresentation noted above, the petitioner is also burdened with costs of Rs. 20,000/-, to be deposited with the Delhi High Court Bar Association Library Fund [A/c No. 15530100046108, Bank Name: UCO Bank, Branch: Delhi High Court, IFSC – UCBA0001553].

11. The next date of hearing, i.e. 22.09.2025, stands cancelled.

PRATEEK JALAN, J

SEPTEMBER 3, 2025

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