



CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

OA No. 060/01170/2019 &

MA NO. 060/01949/2019

This the 08th day of January, 2020

HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN

HON'BLE MR. MOHD. JAMSHEDE, MEMBER (A)

Usha W/o Sh. Rahul Chauhdary, aged about 42 years, Senior Technician (X-Rays) (Group B) department of Radio Diagnosis and Imaging, Post Graduate Institute of Medical Education and Research, Chandigarh, R/o # 1036, Sector 38 B Chandigarh.

.....Applicant

(By: Mr. Hemdender Goswami, Advocate)

VERSUS

1. Post Graduate Institute of Medical Education and Research, Sector 12, Chandigarh through its Director – 160012.
2. Director cum Appointing & Disciplinary Authority, Post Graduate Institute of Medical Education and Research, Sector 12, Chandigarh – 160012.
3. President of PGIMER, Chandigarh-cum-Appellate Authority-cum-The Minister of Health and Family Welfare, Government of India, &, Ministry of Health & Family Welfare, Nirman Bhawan, New Delhi – 110011.
4. The Deputy Director Administration cum Countersigning/Endorsing/Accepting Authority, Post Graduate Institute of Medical Education and Research, Sector 12, Chandigarh – 160012.

.....Respondents



ORDER (ORAL)

JUSTICE L. NARASIMHA REDDY:

Applicant is working as Junior Technician in the Post Graduate Institute (Respondent No. 1). Her case for promotion to the post of Senior Technician was considered by the DPC. However, it was found that ACR for the year 2012-13 was recorded as 'Average'. Accordingly, the concerned ACR was communicated to the applicant to enable her to make representation to the competent authority. Applicant, in turn, submitted a representation to the competent authority i.e. Director of the Institute (Respondent No. 2), with a request to upgrade her ACR. Respondent N. 2 called for the remarks from the Reporting Officer and Reviewing officer who dealt with the ACR of 2012-13 of the applicant. Remarks were to the effect that despite repeated advice to the applicant to improve upon and to share responsibilities as and when required in the patient care, she did not show any willingness. Taking note of the same, the 2nd respondent passed the order dated 27.11.2014, refusing to upgrade the ACR. The applicant preferred an appeal to the concerned Minister. Through communication dated 21.04.2015, applicant was



informed that her request has already been considered and examined by the Competent Authority and the same has not been acceded to. This O.A. is filed, challenging the order dated 27.11.2014 and other related proceedings.

2. Applicant contends that she has made representation for upgradation of ACR of 2012-13, and instead of examining the matter objectively in detail, the same has been rejected stating that the matter has already been considered and examined. It is also stated that the Appellate Authority ought to have considered the issue, in detail.

3. We heard Sri Hemdender Goswami, learned counsel for the applicant, in detail, at the stage of admission.

4. In the course of selection to the post of Senior Technician, the ACR of the applicant for the year 2012-13 was found by the DPC to be below benchmark. The necessity to communicate such ACRS arose on account of Hon'ble Supreme Court judgment in the case of **Devdutt Vs. Union of India & Others**, 2008 (8) SCC 725 and accordingly, it was communicated. As properly advised, applicant made a representation to the 2nd respondent for its upgradation. The latter, in turn, called for the remarks of Reporting Officer and Reviewing



Officer. On perusal of the reasons assigned by them, he felt that ACR does not warrant any upgradation. An order was passed on 27.11.2014 rejecting the representation.

5. Applicant filed an appeal, feeling aggrieved by the order dated 27.11.2014. It becomes necessary to see whether the appeal lies against the order passed by the Competent Authority at all. The order passed by the Competent Authority on the representation of the applicant is a reasoned one and in detail. No rule is cited before us, which provides for further appeal against the order of Competent Authority.

6. Coming to the order dated 27.11.2017, the 2nd respondent has called for the remarks of the Reporting Officer and Reviewing Officer, and agreed with them. The order reads as under:-

“As per the comments of the Reporting Officer which were endorsed by the Reviewing Officer in the ACR for the year 2012-13, you were advised to improve upon and but you have never shown any willingness to cooperate and share responsibilities as and when required for the sake of patient care”

It is no doubt true that it would have been better if 2nd respondent had further elaborated. The fact remains that the order reflects that remarks from the Reporting Officer and Reviewing Officer were called for and gist thereof was taken note of. Beyond that, law does not require him to



do anything further. It is not the case of the applicant that her representation was rejected without any reason whatsoever.

7. We do not find any merit in the O.A. It is accordingly dismissed.

There shall be no order as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)

Member (A)

Chairman

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