



**Central Administrative Tribunal
Principal Bench**

OA No.215/2016

New Delhi, this the 27th day of November, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

Dr. Chander Pal Singh
Group 'A' retired
Aged 67 years,
S/o Shri Nanhay Ram,
S/o A-275, Sector-19,
NOIDA 201301.

... Applicant.

(By Advocate : Shri Ashish Nischal)

Versus

North Delhi Municipal Corporation
Through its Commissioner
S. P. Mukherji, Civic Centre,
J. L. Nehru Marg,
New Delhi 110 002.

... Respondent.

(By Advocate : Shri Manjeet Singh Reen)

: O R D E R :

Justice L. Narasimha Reddy, Chairman:

The applicant joined the service of the Medical Department of the Government of National Capital Territory of Delhi (GNCTD) as General Duty Medical Officer, Grade-II (GDMO-II) on 04.10.1975. Thereafter, he was promoted as GDMO-I in 1985, was placed in the Super Time Grade-II (STG-II) w.e.f. 01.10.1991, and promoted as Chief Medical Officer (CMO) (NFSG) w.e.f. 11.12.1997. The applicant



acquired the qualification of diploma in public health and remained in that branch from 1986 till the date of his retirement.

2. In GNCTD, age of retirement of the Medical Officers differs, depending upon the Cadre. While the ordinary GDMO would retire on 60 years, those in the public health wing would retire on 62 years. One Dr. Bhagwan Dass who held the post in public health filed a writ petition before the Hon'ble Delhi High Court, which, in turn, was transferred to this Tribunal, and renumbered as TA No.275/2009. He was granted the relief in the form of enhancement of age of retirement. The order passed by the Tribunal was upheld by the Hon'ble High Court and ultimately he was continued till the age of 62 years. The applicant has also claimed the same relief by filing OA No.3367/2010, and the relief was granted.

3. The GNCTD initiated steps for identifying the posts of Supertime Administrative Grade-I (SAG-I) in the GDMO cadre. The case of the applicant was considered by the Departmental Screening Committee, which met on 29.08.2006. However, the case of the applicant was not cleared on account of non availability of the relevant ACRs. Added to that, the applicant was involved in a criminal case



in which he was quitted only on 08.07.2011. After acquittal, the applicant made a representation to the respondents with a request to extend him the benefit of SAG-I. A complaint was also submitted before the Public Grievance Commission (PGC). It ultimately emerged that the applicant did not file the self appraisals for the period from 1995 to 2007, and accordingly the ACRs could not be recorded at all. Therefore, the request for notional benefit of SAG-I was denied to the applicant.

4. This OA is filed challenging the action of the respondents in denying the applicant, the benefit of SAG-I on notional basis w.e.f. 20.11.2006, the date on which the officers who were junior to him were granted that benefit.

5. The applicant contends that once he was within the zone of consideration and held the requisite qualifications, there was absolutely no basis for denying him the SAG-I.

6. The respondents filed the counter affidavit opposing the OA. It is stated that though the applicant was within the zone of consideration when the Departmental Screening Committee met in 2006, his case was not considered for want of ACRs, and shortly thereafter, he faced criminal proceedings. It is stated that the steps were initiated for considering the case of the applicant for extending the



benefit of SAG-I on notional basis after he was acquitted from the criminal case, but he could not be cleared for want of ACRs. It is stated that the reason for non availability of the ACRs is the failure on the part of the applicant to initiate the ACR by submitting self appraisal and he cannot blame the department for his lapses.

7. We heard Shri Ashish Nischal, learned counsel for the applicant and Shri Manjeet Singh Reen, learned counsel for the respondents.

8. Though several details are furnished as regards the service particulars of the applicant and about his involvement in the criminal case, they are not necessary for the limited purpose of examining his entitlement to SAG-I. For the first time, the SAG was introduced in the Medical Department of GNCTD in the year 2006. The applicant was very much within the zone of consideration.

9. It is fairly well known that promotion to SAG-I is on the basis of selection and it cannot be extended as a matter of course. The Departmental Screening Committee has to take into account, the ACRs of the officers for the relevant period, the general track record of the officer and then to decide his eligibility. When the Screening Committee met in 2006, the ACRs of the applicant for the period from 1995



to 2007 were not available. In case, the non-availability of the ACRs was on account of any lapse on the part of the respondents, the applicant cannot be penalised. It ultimately emerged that the non existence of the ACRs for the said period was on account of the fact that the applicant did not initiate the ACRs at all. Therefore, he cannot blame the respondents.

10. Though the denial took place in the year 2006, the applicant remained silent till 08.07.2011, the date on which, he was acquitted by the concerned criminal court. There was every justification for him to renew his request. However, the situation remained where it was in 2006. The PGC examined his complaint in depth and passed an order dated 10.05.2016, which reads as under:-

“1. Brief facts of the complaint

A grievance was received in PGC from Dr. C. P. Singh. The complainant stated that after rendering 33 years service in MCD, he retired as Dy. MHO (PH) North DMC. The complainant has stated that he has contacted o/o the Director (Personnel) North DMC to find out any progress in case of his promotion to the post of SAG-I many times but same has not been granted. He has requested that concerned officer be directed to decide his case on priority.

2. Proceedings in the Public Grievances Commission.

The PGC convened its first hearing on 3.3.2015 on the complaint, second on 15.4.2015, third on 30.6.15 fourth on 19.8.2015, fifth on 4.11.2015, sixth

on 19.1.2016, 7th on 16.3.2016 and the latest on 10.5.2016 wherein the following were present.

Complainant: Absent

Respondent: Present, Sh. R. S. Mehta, Health Department, Sh. K. K. Burman, AO, CED

An ATR has been filed by Admn. Officer (Estt.)/North DMC stating therein that:-

“As per the ACR dossier of Dr. C. P. Singh maintained in this office, the concerned HoDs were already requested to send the CR w.e.f. 22.11.1995 to 31.3.2007. Copies of request letter enclosed herewith for ready reference.”

The representative of the department has produced the record/copy of letters periodically written to DHO, Central Zone for providing the ACRs of Dr. C. P. Singh.

3. Directions:-

The Commission is of the view that Dr. C. P. Singh, the complainant has failed to provide the self appraisal form to the Department. As the fault lies with the complainant, the Commission has decided to close the case.”

The applicant filed a rejoinder in this OA and did not dispute the facts borne by the order referred to above.

11. Once the fault is with the applicant in initiating his ACRs, he cannot blame the respondents for not extending the benefit of SAG.





12. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/