

21

**Central Administrative Tribunal  
Principal Bench**

**OA No.274/2001**

New Delhi, this the 17<sup>th</sup> day of March, 2011

**Hon'ble Dr. Ramesh Chandra Panda, Member (A)  
Hon'ble Dr. Dharam Paul Sharma, Member (J)**

Dr. H.C. Goel  
A 78/2, DDA (SFS) Flats,  
Saket,  
New Delhi-110017.

... Applicant

(By Advocate : Shri Kartar Singh)

**Versus**

1. Union of India through  
The Secretary,  
Deptt. of Defence Research & Development  
South Block, DHQ PO,  
New Delhi-110011.

2. The Chairman,  
The Peer Committee for SC-F to Sc-G,  
DRDS (2000)  
Recruitment & Assessment Centre,  
Lucknow Rd.  
Timarpur,  
Delhi-110054.

3. The Director,  
Institute of Nuclear Medicine Allied Sciences,  
Lucknow Road,  
Delhi-110054.

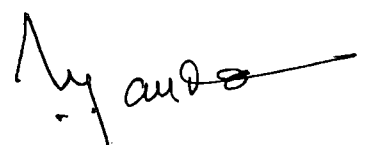
.... Respondents

( By Advocate : Shri R. N. Singh)

**: O R D E R (ORAL) :**

**Dr. Ramesh Chandra Panda, Member (A)**

Shri H.C. Goel, the Applicant herein was working as  
Scientist 'F' since July, 1994 in the Institute of Nuclear



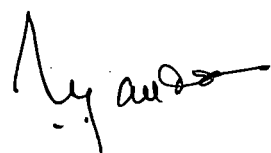


Medicine & Allied Sciences (INMAS), Delhi in DRDO. He was assessed by the Peer Committee in June, 2000 to the grade of SC-G but was not recommended. Feeling aggrieved by the said action of the Respondents, he approached the Tribunal in the present OA with the following prayers :-

"(A) Call for relevant records, if necessary.

(B) Quash the Peer Committee (year-2000) proceedings for Scientist 'F' to Scientist 'G' in respect of the Applicant and order his case to be reviewed without taking into consideration Parts-I, II of the biodata and one-page brief biodata referred to in A/2, grant all consequential reliefs including back wages as on duty as Sc-'G' since 01.07.2000, grant any other relief, with cost."

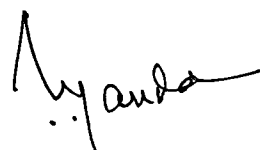
2. Notice was issued to the Respondents on 6.2.2001 to which the Respondents filed short reply on 18.5.2001. In the meantime, it was brought to the notice of the Tribunal that controversy of a similar nature with the facts of same type was coming up before the Hon'ble High Court on 29.8.2001. The Division Bench of this Tribunal took note of the said developments confirmed by both the parties and adjourned the present OA by putting in the *sine die* list giving liberty to either side to seek its revival after the orders of the Hon'ble High Court in the related case would be delivered. In the meantime, on 05.05.2010, it was decided to list all the *sine die* cases before our Bench to assess the position in each of the cases and the present case was listed for further orders on that date. We considered the case on



6.5.2010, 25.5.2010, 19.7.2010, 26.7.2010, 19.8.2010, 16.9.2010, 29.10.2010, 10.12.2010, 20.1.2011 and when the case was taken up on 25.2.2011, Shri Mahesh Chandra, the learned counsel for the applicant submitted that the similar matters which were listed in the Hon'ble High Court had been decided which went in favour of the Applicants. Therefore, a copy of the said judgment of the Hon'ble High Court in Writ Petition No.208/2001 delivered on 17.3.2005 was furnished to us by Shri R.N. Singh the learned counsel for the Respondents.

3. The said Writ Petition was considered the controversies decided by this Tribunal in **OA No.1968/2000** decided on 14.12.2000 in the matters of **Dr. R.R. Dayal Vs. UOI & Others** in which having considered the facts of the case and heard the rival parties, this Tribunal allowed the OA with the following directions :-

"10. The learned counsel for the respondents has, on the other hand, relied on the judgment of the Supreme Court in **Om Prakash Shukla V. Akhilesh Kumar Shukla**, AIR 1986 SC 1043. The learned counsel has stated that a petition challenging the validity of competitive examination filed on realization that he would not succeed cannot be sustained, and this is what has been held by the Supreme Court in the aforesaid case. We find that the facts and circumstances of the case before the Supreme Court and the point on which a decision was taken are not relevant for our purpose and cannot find application in the instant case. The learned counsel for the applicant nevertheless sought to meet the point raised by contending that there can be no estoppel in the face of law/rules.

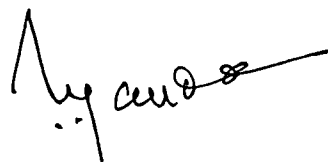


11. In the background of the above discussion, we allow the OA and squash and set aside the peer committee proceedings for Scientists 'F' to Scientists 'G' for the years 1999 and 2000 insofar as the same relate to the applicant. The respondents will carry out a fresh assessment of the applicant for his upgradation under the flexible complementing scheme without taking into account the self-appraisal report referred to above. It is clarified that the director's comments/recommendations forming part of the self-appraisal report will also not be taken into account. The respondents are further directed to organize a review meeting of the peer committee expeditiously and in any event within three months from the date of receipt of a copy of this order.

12. The OA is allowed in the aforesaid terms, with no order as to costs."

4. Feeling aggrieved by the said orders, a Writ Petition was filed by the Union of India against the above cited judgment passed by the Tribunal in **Writ Petition (Civil) No.2082/2001** which was considered by the Hon'ble High Court of Delhi and passed its order on 17.3.2005, upholding the judgment of the Tribunal and dismissing the Writ Petition. The relevant part of the said judgment is extracted below :-

"It is stated that after filing of this writ petition in this Court wherein a challenge was made to the legality and validity of the aforesaid judgment and order, the petitioner proceeded to implement and give effect to the directions issued by the Tribunal in paragraph 11 so far as it related to the respondent alone. An application was also filed by the petitioner seeking for stay in respect of aforesaid direction contained in paragraph 11 of the stay application. The said application as also the petition have been rendered infructuous so far as the same relates to the respondent herein since the

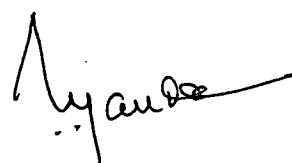


25

order passed by the Tribunal has been implemented and has been given effect to. So far as the respondent is concerned, in our considered opinion nothing survives in his petition as the respondent has already received relief which he has sought in his petitioner filed before the Tribunal. However, we are of the considered opinion that the aforesaid observations as contained in paragraph 11 were issued by the Central Administrative Tribunal in the case of the respondent alone and therefore, the same is applicable to the facts and circumstances of the case of the respondent alone and the same shall not be construed as binding and applicable in case of any other similarly situated person. If and as and when such a plea is raised by any other person which is raised by the respondent herein in the original application, the same shall have to be considered afresh in accordance with law. The observations made in the impugned judgment and order shall not be construed as binding so far other persons are concerned. It shall also be open to the respondent to challenge any adverse order made against him by the petitioner subsequent to the passing of the order passed by the Tribunal as he same gives rise to a fresh cause of action.

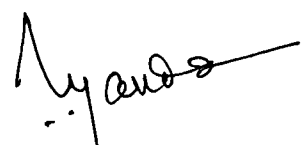
This writ petition, therefore, is disposed of as infructuous."

5. Today, when the case came up for hearing, Shri Kartar Singh learned counsel for the Applicant submits that facts of the case of the Applicant in the present OA are similar to the facts and circumstances of the **Dr.R.R. Dayal's** case (supra) in which the judgment of the Hon'ble High Court of Delhi and of this Tribunal had gone in favour of the Applicant. He, therefore, submits that the Applicant's case being squarely covered by the referred judgments, the Applicant should be granted similar relief, as was granted to Dr. R.R. Dayal.



6. Shri R.N. Singh, learned counsel for the Respondents submits that whether the Applicant in the present OA is similarly situated and similarly circumstanced or not has not yet been examined by the Respondents and they should be granted an opportunity to examine the same and if the Applicant is found to be similarly placed and circumstances as Dr. R.R. Dayal, the Respondents would take appropriate decision in the matter.

7. Having considered the contentions raised by the parties, we are of the opinion that the issues decided in Dr. R.R. Dayal's case (supra) by this Tribunal and upheld by the Hon'ble High Court of Delhi should be taken into account while examining the facts and circumstances of the case of the Applicant in the present OA by the Respondents as expeditious as possible. While comparing and taking a decision on the same, if the applicant is found similarly circumstanced, the Respondents are directed to extend the benefits accrued to Dr. R.R. Dayal in OA No.1968/2000 upheld in Writ Petition 2082/2001 to the Applicant in the present OA. In case they find there is dis-similarity between the two cases, the Respondents are directed to give an opportunity to the Applicant to explain how he is similarly placed and circumstanced and after hearing him, an appropriate speaking and reasoned order needs to be



27

passed with a copy to the Applicant. The whole exercise in the present case should be completed by the Respondents within 9 weeks from the date of receipt of certified copy of this order. There is no order as to costs.



( Dr. Dharam Paul Sharma )  
Member (J)



( Dr. Ramesh Chandra Panda )  
Member (A)

/rk/