

(7)

.CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2516/1999

New Delhi, this the 21st day of March, 2001

HON'BLE SHRI JUSTICE ASHOK AGARWAL, CHAIRMAN
HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Dr. B.G. Dalela
Aged about 54 years
S/o Late Shri M.G. Dalela
R/o P-100A, Sanjay Nagar,
Ghaziabad (U.P.).

..... APPLICANT

(None for the Applicant)

VERSUS

1. Union of India through
Chairman - Railway Board
Rail Bhawan,
New Delhi.

2. General Manager
Northern Railway,
Baroda House, New Delhi.

..... RESPONDENTS

(By Shri E.X. Joseph, Sr. Advocate with Shri
Rajinder Khatter, Advocate)

O R D E R (ORAL)

Shri Govindan S. Tampi, Member (A):

Neither the applicant nor his counsel is present even on second call and we are proceeding to decide the case on merits under Rule 16 of the Central Administrative Tribunal (Procedure) Rules.

2. The applicant in this case seeks the following reliefs:-

- (a) to promote the petitioner in Selection Grade and subsequently SAG grade with retrospective effect when his junior counterparts have been given promotions, with all consequential benefits,
 - (b) grant any other or further relief as deemed fit and proper in the facts and circumstances of the present case.
- h

3. The applicant, a qualified MBBS doctor, was first appointed as ad hoc Assistant Medical Officer in the Delhi Division of Northern Railway on 7.10.1972. The applicant states that as the respondents were discriminating him in the matter of regularisation, grant of seniority and also proper pay scale hence he and his counterparts had filed OA No.1603/1987, which was allowed. Following the same he was assigned interpolated higher seniority over his junior counterparts and his seniority was accordingly refixed - ~~his seniority~~. Presently the applicant is working as Sr. DMO in ~~his~~ J.A Grade while his promotion to the Selection Grade was to take place w.e.f. 27.2.1995 and SAG Grade was to follow. His junior counter parts, who have already been conferred with Selection Grade, have been promoted as Sr. Medical Superintendent ^{and} he was languishing in the Junior Administrative Grade. Subsequently the applicant was given the Selection Grade on paper, but he was physically not granted any benefits ~~and~~ inspite of Railway Board's directions dated 27.12.1995. The petitioner has been making representations, but to no avail. Hence this application.

4. In the counter filed on behalf of the respondents, reiterated by Shri E.X. Joseph, Sr. Advocate along with Shri Rajinder Khattar, it is pointed out that pursuant to the recommendations of the 4th Pay Commission, a non-functional Selection Grade has been introduced in Group 'A' Railway Services including Indian Railway Medical Service to the extent of 15% of

the senior duty posts for which selection had to be made in terms of the guide-lines issued vide DOP&T's OM dated 9.10.1989. Internal Committee constituted for the purpose were expected to satisfy themselves that of the overall performance of the Officer is to be 'good', with at least 2 'Very Goods' gradings during the last five years and with no adverse entries. According to the respondents the case of the applicant was placed before the Selection Committee for preparation of select panel in their meetings held on 13.12.1995, 24.5.1997, 8.3.1998 and 24.6.1999 along with others but he was not found "FIT" by the competent authority for placing him in the Section Grade on the basis of his performance. It was not a case of either the administration and the respondents being hostile and discriminatory towards the applicant, but it is a case where the applicant did not make the grade for being placed on the Selection Grade. However, on ^a subsequent date when he made the grade he has been promoted and placed in the Selection grade w.e.f. 6.6.2000 and thereafter he has been brought on the SAG Grade also w.e.f. 20.10.2000. The respondents had acted strictly in accordance with the guide-lines drawn up by the DOPT, which were scrupulously followed by the Committee while making selection to the non-functional grade. The applicant cannot, therefore, have any grievance, the Senior counsel appearing for the respondents states.

5. We have carefully considered the rival contentions and also perused the documents placed on record including the proceedings of the Internal

Selection Committee which considered the performance of the related candidates including the applicant for grant of Non-Functional Grade for the years 1995, 1997, 1998 and 1999. It is also found that in terms of the DOP&T's instructions dated 9th Oct. 1989 the Internal Committee shall consider five ACRs of the Officers concerned. While the Committee should satisfy itself that the overall performance of the Officer was good and that he has at least two "Very Good" gradings during the last five ACRs. If there are any adverse entries, which should be clearly brought out in the minutes as to why the officer has been proposed for NFSG in spite of the adverse entry.

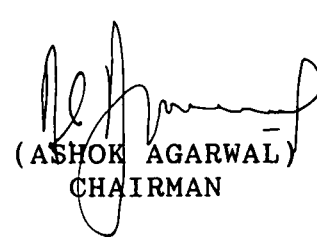
6. The relevant finds of the Committee have been perused by us keeping in view the above criterion. We find that the Committee has strictly followed the instructions issued by the DOP&T. Perusal of the ACRs of the applicant for the relevant period show that the DPCs, which held for 1994-95, 96 and 1998 did consider his case but he did not make the grade. In terms of the criterion, he did not have 5 'Good' gradings including two 'Very Goods'. We have also seen that there are two adverse entries given in the ACRs, but those remarks ^{which} had been given by the Reviewing Officer and not communicated, had not been taken into consideration. In spite of that he had only obtained "Average" grading in those years. He has been placed in the select panel as soon as he made the grade by getting five 'good' ACR gradings including two 'Very Good'. Therefore, we find that the DPC had acted correctly and

(5)

averments to the contrary by the applicant do not merit acceptance and the DPC's findings have to be totally upheld.

7. In the circumstances, we are convinced that the application has no merit. It is accordingly dismissed. No costs.


(GOVINDAN S. TAMPL)
MEMBER (A)


(ASHOK AGARWAL)
CHAIRMAN

(pkr)