

(18)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.629/95

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this the 3rd day of January, 2000

Dr. Pradeep Halder
s/o Sh. M.M.Halder
r/o 109, Munirka Vill.
New Delhi - 110 067.
Employed as Assistant Director
(Chief Medical Officer)
Directorate of Family Welfare
Government of Delhi
Malkaganj, Delhi - 110 007. ... Applicant

(Applicant in person)

Vs.

1. Secretary
(Health and Family Welfare)
Ministry of Health and Family Welfare
Department of Health
Nirman Bhawan
New Delhi.

2. Secretary (Medical)
Govt. of National Capital Territory of Delhi
(Formerly Delhi Administration)
5, Shyam Nath Marg, Delhi. ... Respondents

(By Shri V.S.R.Krishna, Advocate for R-1 and none for
Respondents No.2).

O R D E R (Oral)

By R.K.Ahooja, Member(Admnv.):

The applicant joined the Central Health
Service w.e.f. 1.7.1981 as a Medical Officer. The
applicant was due to cross the efficiency bar w.e.f.
1.7.1987 at the stage of Rs.2800/- in the pay scale of
Rs.2200-4000. A recommendation was also made by the
Chief Medical Officer vide his order dated 14.6.1990.
copy at Annexure 'C'. By letter dated 12.3.1992, in
response to his representation, he was informed that
his case could not be considered for crossing the
efficiency bar on account of a major penalty
proceeding pending against him. The applicant was
subsequently promoted as Senior Medical Officer w.e.f.

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21.8.1987. He was also allowed the next promotion as Chief Medical Officer w.e.f. 1.12.1991 in the pay scale of Rs.3700-5000. The applicant's grievance is that as no vigilance proceedings were pending against him his case should have been considered for crossing efficiency bar from the due date, i.e., 1.7.1987. His subsequent pay in the higher post of Senior Medical Officer should have also been refixed on that basis and he should have been allowed his annual increments. He also says that after his promotion as Chief Medical Officer, he has been allowed only the minimum pay of Rs.3700 in the pay scale of Rs.3700-5000. No further increments have been allowed to him.

2. The respondents have stated that it had come to notice that the applicant had constructed a house for which he had given no intimation nor had explained the sources from which he had obtained the requisite funds for building the house. It was later found that the land in question had been gifted to him along with his brothers by his late father. It was however concluded that the applicant was guilty of violating the conduct rules in not intimating the construction of house and explaining the sources from which the requisite funds had been obtained.

3. We have heard the applicant in person and have also heard Shri V.S.R.Krishna, learned counsel for Respondent No.1, i.e., Union of India. None has however appeared on behalf of Respondent No.2, i.e., NCT of Delhi.

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4. The applicant was not considered for crossing the efficiency bar w.e.f. 1.7.1987 on the ground that a vigilance case was pending against him with the Central Bureau of Investigation (CBI). We find however that the applicant was promoted only a month later on 21.8.1987 as Senior Medical Officer. What is more, four years latter, on 1.12.1991 he was allowed yet another promotion as Chief Medical Officer. We therefore fail to see as to how the case of the applicant could not be considered for crossing the efficiency bar when his case was considered even later for not one but two promotions. If his case for promotion could be considered, the respondents should have also considered his case for crossing the efficiency bar from 1.7.1987, a date prior to date of his promotion as Senior Medical Officer.

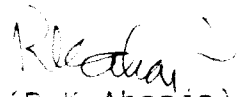
5. We also find that the applicant between 1987 and 1991, i.e., while he was working as Senior Medical Officer was not granted his increments. This was also probably on account of the vigilance enquiry by the CBI. Here again while the increments were not granted, the applicant was not only considered but promoted as Chief Medical Officer in 1991. Clearly there was no ground for holding or not granting the increments due to the applicant.

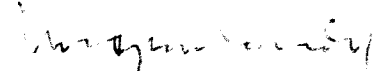
6. The applicant has stated that on the basis of the vigilance enquiry conducted by the Central Bureau of Investigation, he has now been served a charge sheet only on 26.5.1999. Since nothing has been stated in the reply by the respondents about the

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issue of the said charge sheet, we presume that the statement of the applicant regarding the date of issue of the charge sheet on the applicant is correct. The applicant's case of consideration for crossing the Efficiency Bar w.e.f. 1.7.1987 as well as grant of increments for the service rendered by him as Senior Medical Officer from 21.8.1987 and later Chief Medical Officer from 1.12.1991 is prior to the service of the charge sheet on him.

7. In the result, we allow the OA. Since the applicant was found fit for promotion from Medical Officer to Senior Medical Officer on 21.8.1987, clearly he was fit for crossing the Efficiency Bar w.e.f. 1.7.1987 in the pay scale of Medical Officer. Accordingly, the respondents are directed to allow him to cross the Efficiency Bar and to refix his pay as Medical Officer w.e.f. 1.7.1987 on the basis of that he had crossed the efficiency bar. There after the respondents will refix his pay as Senior Medical Officer and allow him all the increments due to him as Senior Medical Officer and Chief Medical Officer till the date of the service of the charge sheet. The arrears will be granted and paid to him within a period of four months from the date of receipt of a copy of this order. There shall be no order as to costs.


(R.K. Ahooja)
Member(A)


(V. Rajagopala Reddy)
Vice-Chairman(J)

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