

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA-714/95

New Delhi this the 19th day of November, 1999.

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE-CHAIRMAN
VICE-CHAIRMAN HON'BLE MRS. SHANTA SHAstry, MEMBER (A)

Dr. R.V. Koranne,
S/o Shri V.R. Koranne,
R/o Z-48, Sarojini Nagar,
New Delhi. ...Applicant

(By Advocate Shri S.K. Gupta)

-Versus-

Union of India through
the Secretary,
Ministry of Health
and Family Welfare,
Nirman Bhavan,
New Delhi. ...Respondents

(By Advocate Shri V.S.R. Krishna)

O R D E R

By Reddy, J.-

The question of promotion of the applicant to the post of non-functional selection grade in Maulana Azad Medical College, New Delhi is involved in this case.

2. The applicant is a Medical Graduate with diploma in Dermatology. He was appointed as Lecturer in the Department of Skin and V.D. in Maulana Azad Medical College in the year 1981. The posts of Lecturer were abolished during 1982 and all the Lecturers in the Central Health Service were re-designated as Assistant Professors. The applicant was thereafter promoted and redesignated as Assistant Professor w.e.f. 1.1.83 and subsequently promoted to the post of Associate Professor w.e.f. 24.8.87. The Government created, for the Associate Professors, promotional avenues in the functional scale of Rs.4500-5700. The relevant clause

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pertaining to the promotion to the functional scale
reads as follows:

"(ii) Associate Professor (Rs.3700-5700)
to be placed in the functional scale of
Rs.4500-5700 on seniority-cum-fitness
basis after six years of regular service
as Associate Professor or 9 years combined
service in case he does not get promotion
earlier according to the rules."

3. On the basis of the above clause, number
of promotions were granted by the respondents on
'seniority-cum-fitness' basis to the selection grade.
Thereafter rules were amended in 1989 changing the
designation of functional grade to non-functional grade.

4. The grievance of the applicant is that his
case for promotion to the non-functional selection grade
was considered but the respondents applied the principle
of 'seniority-cum-fitness' in the case of the applicant
which is contrary to the rules.

5. Thus the first question to be seen in this
case is, whether the respondents had applied the basis
for promotion, the 'seniority-cum-fitness' basis.

6. We have carefully perused the records,
including the DPC meetings that were held on 22.8.90,
24.12.91, 16.12.92 and 30.11.93. In the
counter-affidavit, it is stated that the applicant has

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been denied promotion only on the ground that the DPOCs have considered the promotion on the basis of 'selection' and not 'seniority-cum-fitness' basis. It was averred that the applicant has been found unfit in the meeting held on 22.8.90. In the meeting held on 24.12.91 the DPC recommended that his ACRs for the year 1991 be awaited. In the meetings held subsequently, his case could not be considered on the ground that his ACRs were inadequate and that he should be considered only after his return from foreign assignment. It should be noticed that the applicant has been sent to Saudi Arabia on foreign assignment on 3.4.90 and he returned only in May, 1994. The DPC has followed the guidelines prescribed by the DOP&T vide memorandum dated 9.10.89 which stipulate that the officers to be considered for promotion should have at least two 'very good' gradings in the confidential reports during the preceding five years and their overall performance should have been graded at least 'good' in all the above deliberations, the basis of 'seniority-cum-fitness' has been applied by the DPC for promotion. Thus, the main grievance of the applicant that he was denied promotion only on the ground that a wrong basis has been applied, viz., 'selection' and that the 'seniority-cum-fitness' alone should have been applied appears to be wholly baseless.

7. In the circumstances, the OA fails and is accordingly dismissed. No costs.

Shanta
(Smt. Shanta Shastry)
Member (A)

Dr. B. Simhadri
(V. Rajagopala Reddy)
Vice-Chairman (J)