

(22)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 451 of 1996

New Delhi, dated the 26th March, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Dr. Pranvir Singh,
D.M.O.,
Northern Railway,
R/o Qr. No. 48, Railway Colony,
Tuglakabad,
New Delhi-110044.

..... APPLICANT

(By Advocate: Shri K.P. Dohare)

VERSUS

Union of India through

1. Director General,
Railway Health Services,
Railway Board,
Rail Bhawan,
New Delhi 110001.

2. General Manager,
Northern Railway Headquarters,
Baroda House,
New Delhi-110001.

3. Dr. O.P. Sharma,
Chief Medical Superintendent,
Northern Railway Main Hospital,
Delhi-110006.

..... RESPONDENTS

(By Advocate: Shri R.L. Dhawan)

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents' letter dated 16.2.95 (Ann. A-1) rejecting his prayer for expunction of adverse remarks in his CR for the year ending 31.3.94 as well as respondents' letter dated 1.7.94 (Ann. A-2) communicating the following adverse remarks for the year ending 31.3.94 in the hope that he would improve in the direction indicated

(1) The Union in all PNM kept complaining about non-attendance of emergent cases at Tuglakabad.

(2) Level of knowledge of knowledge of function fair, usually work diligently but could apply himself better.

(3) Large number of complaints from Health Unit by patients and in media.

2. I have heard Shri Dohare for applicant and Shri Dhawan for respondents. Shri Dohare has also filed written submissions which are taken on record.

3. Applicant has sought to establish that the adverse remarks were recorded by Dr. O.P. Sharma, C.M.S. and Dr. B.N. Sinha the then C.M.O. out of animus and malafide motives because they wanted the post of D.M.O. at Health Unit, Delhi Kishanganj against which applicant was posted on 3.7.92 to go to one Dr. Agarwal. This does not satisfactorily explain, why when applicant himself admits that he occupied Qr. No. 48, Tuglakabad on 9.5.93 after its allotment to him on 1.3.93, and as per his own averment was required to attend to emergent call duties at Tuglakabad (Para 10 of written Submissions), the First item in the PNM meeting dated 19.4.94 (copy of minutes taken on record) is a complaint about non-availability of applicant to attend emergency calls at Tuglakabad. The fact that no written complaints were received (as recorded in these minutes) does not signify the absence of complaints, nor is it necessarily disproved by the contents of the letter dated 22.6.93 from the President, Railway Mazdoor Unit addressed to DRM, Northern Railway (Ann. A-6). In fact applicant

131

has himself filed with his written submissions a copy of C.M.S's letter dated 12.5.94 advising him to improve his working in view of complaints from patients and Union that he was not handling emergent cases and mentioning that he had been counselled in this regard in monthly meetings but had failed to do the needful.

4. The existence of complaints regarding the functioning of Health Unit (Shahdara) by patients and media is borne out by copies of the same, which have been furnished by respondents and taken on record.

5. Copy is also taken on record of letters dated 8.9.94 from C.M.S., Delhi addressed to applicant stating that inspite of repeated counselling to improve the working of the Health Unit (Shahdara) he was still receiving complaints from individual patients and also from both the Unions, and despite applicant having been counselled during monthly doctors meetings for improvement, no improvement had been seen in his working, and applicant was against advised to improve his working failing which the above position would be relected in his ACR. Applicant denies receiving the aforesaid letter, but I have no reason to disbelieve respondents' contention that applicant did indeed receive the same.

6. In view of the above it cannot be said that the impugned adverse remarks were illegal, arbitrary, based upon no materials or that applicant had not been counselled appropriately in this regard, before the same were recorded which would warrant judicial interference and the ruling in State of U.P. v/s. Y.S. Misra & Anr. JT 1997 (4) SC 1 as also SLJ 1997(1) 46; SLJ 1989 (3) 321 and AIR 1995 SC 23 relied upon by Shri Dohare does not help the applicant.

7. The O.A. is dismissed. No costs.

Arif Aliqai

(S.R. ADIGE)

VICE CHAIRMAN (A)

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