

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 2573 of 2000

New Delhi, dated the 12th February 2002

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH MEMBER (J)

Umesh Tiwari,
S/o late Shri Chandrdeo Tewari,
R/o House No. 711, Chiradelhi,
Near Jain Sthanak,
New Delhi-110017. Applicant

(By Advocate: Shri T.C. Aggarwal)

versus

Union of India through

1. The Secretary,
Dept. of Personnel & Training,
North Block, New Delhi.
2. The Director,
Central Government Health Scheme,
Nirman Bhawan, New Delhi-110011.
3. The Addl. Director (NZ),
C.G.H.S.,
New Rajinder Nagar,
Shankar Road,
New Delhi-110060.
4. The Under Secretary,
Dept. of Personnel & Training,
Room No. 331, 3rd Floor,
Lok Nayak Bhawan, Khan Market,
New Delhi-110003.

(By Advocate: Shri K.R. Sachdeva and
Shri Madhav Panikar)

ORDER

S.R. Adige, VC (A)

Applicant challenges respondents' action in posting him as L.D.C. and seeks a direction to respondents to post him back as Radiographer/X Ray Technician by creation of a supernumerary post and he be given next higher pay scale from the date of ACP Scheme with difference of emoluments.

2. Heard.

3. Applicant who was holding the substantive post of Negative Cleaner was declared surplus and his name was referred to Surplus Cell. He was nominated by Respondent No.4 against the post of Radiographer/X Ray Technician and was offered the said post vide Memo dated 22.11.96. Upon his joining the aforesaid post he was directed to report to Addl. Director, North Zone, Delhi vide order dated 16.5.97 (Annexure A-2), but respondents aver that as the post of Radiographer was a technical post requiring specialised qualifications which applicant did not possess, he was adjusted against a post of LDC in CGHS by order dated 1.9.97 by protecting his pay as Negative Cleaner from where he was declared surplus.

4. It cannot be denied that the post of Radiographer/X Ray Technician is a technical post and there are no materials on record to establish that applicant possesses the technical qualification for that post. There is no such averment by applicant in the O.A. to that effect either. Under the circumstances, if, upon discovering that applicant did not possess the technical qualifications for the post of Radiographer/X Ray Technician, respondents have adjusted him against the post LDC by protecting his pay as Negative Cleaner, their action cannot be faulted so as to require judicial interference.

5. If there are any arrears owed by respondents to applicant consequent to his pay protection as Negative Cleaner the same should be calculated and paid to him within two months from the date of receipt of a copy of this order.

6. Subject to what has been stated in para 5 above, the O.A. is dismissed. No costs.

*for fresh M.P. for
clarification*

Kuldeep Singh
(Kuldeep Singh)
Member (J)

/GK/

S.R. Adige
(S.R. Adige)
Vice Chairman (A)