

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1927/1989 1990
T.A. No.

DATE OF DECISION 28-8-1990

<u>Dr. A. K. Sinha</u>	Petitioner Applicant
<u>Shri Ajit Puduserry</u>	Advocate for the Petitioner(s) Applicant
Versus	
<u>Union of India & anr.</u>	Respondents
<u>Mrs. Raj Kumari Chopra,</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. P. K. Kartha, Vice Chairman(Judicial)

The Hon'ble Mr. D. K. Chakravorty, Member(Administrative)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal?

Judgement

(Judgement of the Bench delivered by Hon'ble
Mr. D. K. Chakravorty, Member)

The grievance of the applicant, who is working as Surgeon in Dr. Ram Manohar Lohia Hospital, New Delhi, relates to his non-promotion to the post of Specialist Grade I and to the non-grant of Non-Functional Selection Grade to him. He was appointed as Specialist Grade II Officer in 1973 and since then, he has not received any promotion. He is due to retire on attaining the age of superannuation on 31.1.1991.

2. According to the relevant recruitment rules notified in 1989, there is a provision for Non-functional Selection Grade in Specialist Grade II- Specialist Grade II (Senior Scale) Officers in Non-Teaching Specialist sub cadre with

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nine years regular service are eligible for promotion on the basis of seniority-cum-fitness. Specialist Grade II officers in Non-Teaching Specialist sub-cadre with seven years' regular service are eligible for promotion to Specialist Grade I.

3. The applicant was confirmed on the post in Specialist Grade II in 1982. He was granted Senior Grade of Rs.3700-5000 by order dated 7.3.88. He was not, however, granted the higher Non-functional Selection Grade of Rs.4500-5700 or promotion to Specialist Grade I.

4. In his Annual Confidential Report for the year 1984, the following adverse remarks have been recorded :-

" He left the station without my permission. However, he is now following rules."

5. The representation made by the applicant against the above adverse remarks was disposed of by the respondents on 21.3.89 whereby they expugned the adverse remarks.

6. The respondents have turned down the request of the applicant for grant of Non-functional Selection Grade of Rs.4500-5700 by order dated 30-6-89 without giving any reasons. They, however, added that his request for grant of stagnation increment may be considered as per rules.

7. The applicant's apprehension is that he has not been promoted to Specialist Grade I post presumably due to the adverse entry in his Annual Confidential Report for the year 1984.

8. The case of the respondents is that at the meetings of the Departmental Promotion Committee held on

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7.10.86 and 13.6.89, the Departmental Promotion Committee considered his suitability, along with others, for promotion to the post of Specialist Grade I but his name was not recommended by the Departmental Promotion Committee. The respondents had recommended his name for the grant of Non-functional Selection Grade of Rs.4500-5700 more than once but the competent authority did not approve the same.

9. We have gone through the records of the case carefully and have considered the rival contentions. According to the Office Memorandum issued by the Department of Personnel & Training on 9-12-87, the Selection Grade in Group 'A' Central Services is a Non-functional Selection Grade. Accordingly, appointment to the Selection Grade may be made according to seniority based on suitability taking into account the overall performance, experience and any other relevant matter. The above instructions have been revised by the Office Memorandum dated 9.10.89 which has only prospective effect. The suitability of the applicant for the grant of Non-functional Selection Grade will have to be considered in accordance with the Office Memorandum dated 9-12-87. His suitability for promotion to the post of Special Grade I will also have to be considered afresh by a Review Departmental Promotion Committee.

10. In the light of what is stated above, the application is disposed of with the following orders and directions:-

✓ (1) The respondents are directed to consider the suitability of the applicant for the grant of Non-functional Selection Grade of Rs.4500-5700 by convening a meeting

of the Departmental Promotion Committee afresh. The Departmental Promotion Committee shall consider his case in the light of the instructions contained in the Office Memorandum No.19/1/86-PP dated 9-12-87 issued by the Department of Personnel and Training. If the D.P.C. finds him so suitable, he shall be granted Non-functional Selection Grade of Rs.4500-5700 from the date by which he became eligible for such grant of Selection Grade.

(2) The respondents are directed to hold a meeting of the review D.P.C. to consider the suitability of the applicant for promotion to the post of Specialist Grade I in 1986 and subsequent years and if the review D.P.C. finds him so suitable, he shall be given promotion to the post of Specialist Grade I from the due date.

(3) Subject to (1) and (2) above, the applicant would also be entitled to arrears of pay and allowances for the relevant period.

(4) The D.P.Cs referred to in (1) and (2) above shall not take into account the adverse remarks in the A.C.R. for 1984 which have been expunged by the respondents.

(5) The respondents shall comply with the aforesaid directions within a period of three months from the date of receipt of this order.

(6) There will be no order as to costs.

D.K. Chakravorty
(D.K. Chakravorty)
Member (A)
28/8/890

P.K. Kartha
28/8/90
(P.K. Kartha)
Vice-Chairman (J)