

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1058 1986
T.A. No.

DATE OF DECISION 25.5.1987

Dr. V. P. Malik

Applicant
Petitioner

Shri A.K. Goel,

Applicant
Advocate for the Petitioner(s)

Versus

Union of India & another

Respondents

Mrs. Raj Kumari Chopra,

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Kaushal Kumar, Member(A)

The Hon'ble Mr. G. Sreedharan Nair, Member(J)

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

(G. Sreedharan Nair)
Member(J)

(Kaushal Kumar)
Member(A)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN. NO. OA 1058/86

Dated: 25.5.1987

Dr. V. P. Malik

....

Applicant

Vs.

Union of India & another

Respondents

CORAM: Hon'ble Mr. Kaushal Kumar, Member(A)
Hon'ble Mr. G.Sreedharan Nair, Member(J)

For the Applicant

.... Shri A.K.Goel, counsel

For the Respondents

.... Mrs. Raj Kumari Chopra,
counsel.

(Judgement of the Bench delivered by Hon'ble
Shri G.Sreedharan Nair, Member(J))

The applicant, an Assistant Professor Forensic Medicine, Lady Hardinge Medical College, New Delhi, has filed this application for issuing a direction to the Respondents to promote him to the post of Associate Professor from 1984 when he became eligible for promotion under the Rules. The promotion to the post of Associate Professor was formerly governed by the Central Health Service Rules, 1982 according to which 5 years qualifying service as Assistant Professor was required. However, by the amendment issued by Government ^{by the} Notification dated 4th June 1986, the qualifying service was reduced from 5 years to 3 years. Alleging that the applicant was appointed as Assistant Professor in the year 1981, he claims promotion to the post of Associate Professor with effect from 1984 on the premise that the amendment referred to above has retrospective effect. The claim of the applicant is contested by the Respondents who contend that the

amendment has no retrospective effect and that it has come into force only from 4.6.1986, the date of its publication in the Official Gazette.

2. The question that arises is simple. It is whether a direction has to be issued to the Respondents to promote the applicant with effect from 1984. In the first place a direction to promote an employee cannot be issued, and will not normally be issued by this Tribunal. The right of an employee is only to claim his case being considered for promotion. As the notification under which the Central Health Service Rules 1982 has been amended, by which the qualifying service has been reduced to 3 years, has no retrospective effect, it is effective only from 4.6.1986, the date on which it was published in the Official Gazette. As it is not disputed by the Respondents that the applicant has by then secured the qualifying service of 3 years he has become eligible to be considered for promotion to the post of Associate Professor with effect from 4.6.86 only.

3. Though it is alleged in the application that by an order passed on 20.8.86 certain juniors of the applicant have been promoted to the post of Associate Professor, he has not challenged the said promotion and has categorically stated in paragraph 3(d) of the application that he is not challenging the order but is only seeking that he too may be promoted to the post of Associate Professor.

4. At the time of hearing, counsel of the applicant submitted that after the amended Rules came into force others have been selected to the post of Associate Professor in the speciality of Forensic Medicine to which the applicant belongs and that the applicant has not been considered. Since there is no challenge in the application against the said selection we are not going into the same. In case the applica

is aggrieved by the said selection, it is open to him to pursue his remedy in appropriate proceedings, on the strength of the findings that we have arrived at earlier that he is eligible to be considered for promotion to the post of Associate Professor with effect from 4.6.1986.

5. The application is disposed of as above.

G. Sreedharan Nair
(G. Sreedharan Nair)
Member(J)
25.5.87

Kaushal Kumar
(Kaushal Kumar)
Member(A)
25.5.87