

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH**

**O.A. NO. 422 of 1992**

**T.A. NO.**

**DATE OF DECISION: 7/6/99**

**Dr. N.D. Modi**

**: Petitioner**

**Mr. P.K. Handa**

**: Advocate for the Petitioner**

**VERSUS**

**Union of India & others**

**: Respondents**

**Mr. N.S. Shevde**

**: Advocate for the Respondent(s)**

**CORAM**

**The Hon'ble Mr. V. Radhakrishnan, Member (A)**

**The Hon'ble Mr. P.C. Kannan, Member (J)**

**JUDGMENT**

1. Whether Reporters of Local Papers may be allowed to see the judgement ?
2. To be referred to the Reporters or not ?
3. Whether their Lordships wish to see the fair copy of the judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

*No*

Dr. N.D. Modi, 15/B, Alka Nagar  
Alembic Road,  
Vadodara 390 002  
Retired Medical Superintendent  
Sabarmati Rly. Hospital  
Sabarmati, Baroda Division  
(Advocate Mr. P.K. Handa) .. Applicant

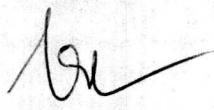
VERSUS

1. Union of India, owning &  
Represented by the General Manager,  
Western Railway,  
Churchgate, Mumbai 400 020
2. Chief Medical Officer  
Western Railway,  
Churchgate, Mumbai 400 020
3. Divisional Railway Manager  
Western Railway  
Baroda 390 004
4. Chief Medical Superintendent  
Western Railway  
Divisional Hospital, Baroda.  
(Advocate Mr. N.S. Shevde) .. Respondents.

JUDGMENT  
OA No. 422 of 1992

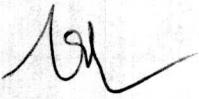
Dt. 7 /6/1999

Per Hon'ble Mr. V. Radhakrishnan, Member (A)

  
We have heard Mr. Handa for the applicant and Mr. Shevde for the  
respondents.

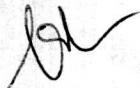
2. The applicant has already retired from Railway service on 28.2.91. He was working in the selection grade 4000-5700(RP) in sub divisional Hospital, Sabarmati, Baroda division. His grievance is that while some of the Doctors, who were junior to him were promoted to the post of Chief Medical Superintendent in the scale 5900-6700 (RP) vide Annexure A, the applicant was not given promotion. The applicant submits that he was entitled for promotion to the post of Chief Medical Superintendent. He says that he has not received any adverse remarks at any time and his service has always been satisfactory. Thus the respondents action in overlooking him for promotion is illegal. Therefore, he claims that he may be promoted from the date his juniors were promoted which would give him better retirement benefits than what he obtained.

3. The respondents have filed reply. They have stated that the application is time barred in as much as the order challenged is dt. 14.1.91 and the present application is filed on expiry of one year i.e. 8/5/92. It is also stated that the applicant had filed a representation to Railway Board on 23.12.91 and he had approached the Tribunal after waiting for six months. Respondents have stated that the applicant along with his colleagues were considered by the DPC for promotion at the level of Senior Administrative Grade, but he was not found fit for promotion on the basis of consideration



of his service records. They have stated that the applicant has no right for promotion but only a right to be considered for the same. They have stated that mere non-communication of adverse remarks does not mean that the employee is suitable for promotion to the higher post. The DPC having taken service record of the applicant, has considered him as unfit. The applicant has filed a rejoinder. He claims that he made a representation against the order of promotion on 23.12.91. Delay in making the representation was due to the fact that he had retired from Rly. Service on 28.2.91 and he had to make arrangements for his settlement. Accordingly, the application is filed on 8.5.92 within the time limit. He has again reiterated his earlier stand that no adverse remarks were communicated to him and according to him his service record is satisfactory. He also claims that the post of Senior Administrative Grade is a non-selection post and promotions are to be made to the grade on the basis of seniority cum suitability.

4. In order to examine the matter in the full perspective, the Bench has called for the Minutes of the DPC which considered the applicants and others for promotion to Senior Administrative Grade. We have gone through the proceedings and find that the applicant was considered along with other officers. We have also gone through the performance statement



of the officers considered. The DPC had taken into account the gradings in the Confidential Report of the officers for the preceding 5 years. The bench mark for consideration for promotion to SA grade is very good. The applicant had obtained 4 good reports and one very good report in the preceding 5 years and obtained 16 points. Accordingly, we find that the applicant had not cleared the bench mark for fitness for promotion to Sr.Administrative grade. Therefore, the DPC graded him as unfit for promotion. We find that the applicant has been given due consideration and he could not be promoted to the SAG, as he did not fulfil the norms prescribed for promotion, taking into account the CRs for the preceding 5 years.

5. Accordingly, we find no basis for the applicant's grievance, who has only got a right to be considered for promotion and he has been rightly considered. The application is therefore devoid of merits and is dismissed. No orders to costs.

P.C. Kannan  
(P.C. Kannan)  
Member (J)

V.Radhakrishnan  
(V.Radhakrishnan)  
Member (A)

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