

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A.No.955/2017

Tuesday, this the 28th day of March 2017

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Dr. Indu Kaushik (Aged about 64 years)
Specialist Grade I (Gynae & Obst.)
ESI Corporation, New Delhi
r/o A-23, Sector 34, Noida

..Applicant

(Applicant in person)

Versus

Director General, ESI Corporation
Panchdeep Bhawan
CIG Road, New Delhi – 110 002

..Respondent

(Mr. H K Gangwani, Advocate)

O R D E R (ORAL)

Justice Permod Kohli:

Notice.

2. Mr. H K Gangwani, learned counsel appears and accepts notice on behalf of respondent.

3. The applicant was working as Medical Officer in ESI Corporation, New Delhi. She possessed the qualifications of MBBS and MD in Gynae & Obst. She was promoted as Specialist (Gynae & Obst.) through Union Public Service Commission (UPSC) on 20.02.1990 and thereafter she earned promotions as Senior Scale Specialist Grade II and Specialist Grade I (NFSG), and further as Senior Administrative Grade (SAG). She approached this Tribunal by filing O.A. No.2742/2008, which was disposed

of by directing the respondent to pass a speaking order in respect to the representation of the applicant against her ACR for the year 2001-02. Her adverse remarks were expunged. She was to be considered for promotion from the prior date. In compliance of the aforesaid directions, the respondent passed order dated 03.08.2010 antedating her promotion w.e.f. 24.06.2006. The applicant again represented on 13.11.2010 claiming promotion w.e.f. 03.09.2001. Having received no response, she filed another O.A. No.2924/2012. The Tribunal, considering the claim of the applicant, disposed of the O.A. vide order dated 28.08.2014 and passed the following directions:-

“4. In view of the above analysis, we allow this OA and direct the respondents to convene a Review DPC to consider the case of the applicant for grant of promotion w.e.f. 3.9.2001. In the light of observations made above, in case, she is found fit she will be promoted to Specialist Grade I with effect from that date. In case, she is promoted, she will be entitled to the benefits of pay fixation with effect from that date. Moreover, since the promotion to the Specialist Grade I is non-functional, she will also be entitled to arrears of pay. This exercise will be completed within a period of eight weeks from the date of receipt of a certified copy of this Order. No costs.”

4. The respondent-Corporation filed W.P. (C) No.2354/2015 against the aforesaid judgment of the Tribunal before the Hon'ble High Court of Delhi. While disposing of the W.P. on 11.03.2015, the Hon'ble High Court issued the following directions:-

“In the above circumstances, we direct the petitioner to comply with the directions given by the Tribunal within a period of six weeks from the date of this order.”

5. The aforesaid direction has attained finality. In the meantime, the applicant's representation against her ACRs for the period 1991-92, 1992-93, 1993-94, 1998-99 (two parts) and 1999-2000 for upgradation stands

rejected. Be that as it may, the fact remains that the direction of the Tribunal and confirmed by the High Court has to be complied with. The respondent-Corporation has no option but to convene the review Departmental Promotion Committee (DPC).

6. In view of the above circumstances, the O.A. is being disposed of at the admission stage itself with a direction to the respondent-Corporation to convene a review DPC in accordance with the direction of the Tribunal in its order dated 28.08.2014 and confirmed by the High Court vide order dated 11.03.2015, within a period of three months. Let the entire record of the applicant for the relevant period be placed before the review DPC, which will examine the matter and record its findings based on the ACRs and other relevant records in accordance with rules. No order as to costs.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

March 28, 2017
/sunil/