

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

**OA-1936/2009**

**Reserved on : 22.08.2016.**

**Pronounced on : 30.08.2016.**

**Hon'ble Mr. Shekhar Agarwal, Member (A)**  
**Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

Sh. Gulab Singh Shrivastava,  
G-409, Naroji Nagar,  
New Delhi-110029.

..... Applicant

(Applicant in person)

Versus

1. Union of India,  
New Delhi.
2. Medical Superintendent,  
Safdarjung Hospital,  
Ansari Nagar,  
New Delhi-110029.
3. Deputy Director Administration,  
Safdarjung Hospital,  
Ansari Nagar,  
New Delhi-110029.
4. Sh. Amar Singh,  
Senior Technician, Leather Technology,  
Prosthetic and Orthotic Workshop,  
Rehabilitation Department,  
Safdarjung Hospital, Ansari Nagar,  
New Delhi-110029.

OR

Sh. Amar Singh,  
House No. F-88 (Type-III),  
Naroji Nagar, New Delhi-29.

.... Respondents

(through Ms. Jagriti Singh, Advocate)

**ORDER****Mr. Shekhar Agarwal, Member (A)**

The applicant initially filed this O.A. with the following prayer:-

“(a) direct the Respondents No. 2 and 3 to designate the Complainant as a permanent employee.

(b) revoke the promotion order dated 05.06.2009 of Respondent No.4.

(c) direct the Respondent No.3 to grant promotion to the Complainant to the post of Senior Technician (Leather Technology).

(d) grant arrears of pay from the date of passing of the impugned order dated 05.06.2009 to the date of promotion of the Complainant.

(e) allow cost of the present petition in favour of the Complainant and against the respondents.”

2. During the course of arguments, the applicant admitted that the relief prayed for in prayer clause(a) has since been granted by the respondents. Hence, he is not pressing the same. The O.A. was, therefore, heard for the remaining prayer clauses. This O.A. was first allowed by our order dated 27.08.2010. The respondents then challenged the aforesaid order before the Hon'ble High Court of Delhi. Hon'ble High Court of Delhi vide their order dated 26.09.2011 stayed the operation of the order of the Tribunal till the next date of hearing. Subsequently, on a review application filed by the private respondent No.4 in OA (Sh. Amar Singh) the order dated 27.08.2010 of this Tribunal was recalled and O.A. was directed to be listed for

fresh hearing. The aforesaid order in review was challenged by the OA applicant before the Hon'ble High Court of Delhi vide Writ Petition No. 3414/2014. However, the same was dismissed on 09.09.2012 by the Hon'ble High Court of Delhi. The O.A. was, therefore, heard afresh by us.

3. The applicant has challenged the promotion of the respondent No.4 to the post of Senior Technician (Leather Technology) on the ground that Section 13(2) of the Rehabilitation Council of India Act, 1992 makes it mandatory for a Rehabilitation Professional to have completed any of the recognized courses in the field of Rehabilitation Engineers/Technicians as well as to have got himself registered with the Rehabilitation Council of India. The applicant has submitted that he was the only one amongst the short listed candidates possessing these qualifications. Yet the respondents in utter disregard of these conditions had promoted respondent No. 4 (Sh. Amar Singh) as Senior Technician (Leather Technology).

3.1 The applicant has submitted that mandate has been given to the Rehabilitation Council of India to regulate and monitor the services given to persons with disability, to standardise the syllabus and also to maintain a register of qualified professionals working in the field of Rehabilitation and Special Education. In furtherance of the said objective, the Rehabilitation Council of India prescribed

certain approved courses to be completed by persons who are providing such services. He has further submitted that he is presently working in Prosthetic and Orthotic workshop of respondent No.1 and falls in the category of Rehabilitation Professional as per Section 2(n)(iv) of the Act. On the other hand, respondent No. 4 did not possess the requisite qualifications and had failed to complete the Bridge Course, which had been launched with the objective of giving one time opportunity to such serving employees who register themselves with the Rehabilitation Council. Respondent No. 4 having failed to complete this programme was never registered with the Rehabilitation Council of India, even then the respondents had promoted him.

4. In their reply, the official respondents have submitted that the applicant was appointed as Junior Technician (Leather Technology) in Safdarjung Hospital in the department of PMR. The aforesaid post was not covered under the Rehabilitation Council of India Act, 1992 and as such registration under Section-13(2) of that Act was not mandatory. Even the certificate course in Prosthetics and Orthotics was not mandatory for the post of Junior Technician or Senior Technician. While it is true that the applicant had got himself registered with the Rehabilitation Council of India, such registration was not a mandatory requirement for the post in question. The respondents have further submitted that the claim of the applicant

for consideration for promotion to the post of Senior Technician (Leather Technology) in preference to respondent No.4 was not in accordance with the Recruitment Rules for the post of Senior Technician (Leather Technology). This is because as per the Recruitment Rules, the qualification for appointment to the post of Junior Technician (Leather Technology) was matriculation with a certificate from a recognized Institution in Industrial Leather works and moulding with specialization in surgical shoes and two years experience as a leather worker. This appointment was not based on a certificate course in Prosthetics and Orthotics. Further, a leather worker with five years' service in the grade was eligible for promotion to the rank of Senior Technician. The respondents have annexed a copy of the Recruitment Rules with their reply (pages 27 to 29). They have further submitted that vide order dated 13.08.1996 leather worker and senior leather worker had been re-designated as Junior Technician and Senior Technician (Leather Technology) respectively. The respondents have gone on to state that private respondent No. 4 (Sh. Amar Singh) was much above the applicant in the seniority list and had been correctly and legally promoted to the rank of Senior Technician in accordance with the Recruitment Rules for the post.

5. We have heard both sides and have perused the material placed on record. In particular, we have seen the Recruitment Rules for the post of Junior Technician (Leather Technology) and Senior

Technician (Labour Technology) earlier called Labour worker and Senior Labour worker. The Recruitment Rules are at pages 27-29 of the paper-book. According to these Rules, the post of Senior Labour worker was a non-selection post and Leather worker with five years' service in the grade were eligible for promotion to this post. The composition of the DPC to adjudge the suitability of the candidates for such promotion is also mentioned in the service rules. The Rules do not prescribe that registration with Rehabilitation Council of India was a mandatory condition for such promotion. Nor do the Rules prescribe passing of another course in Prosthetic and Orthotic or the Bridge course launched by the Rehabilitation Council of India. Thus, the Recruitment Rules do not in any manner support the claim of the applicant.

6. After consideration of the submissions of both sides, we find that this O.A. is totally devoid of merit. The promotions are made in accordance with the Recruitment Rules of the post in question. It does not matter whether those service rules are in accordance with provisions of any Act or not. In the instant case, we do not find that the official respondents have in any manner violated the provisions of the Recruitment Rules while promoting the respondent No.4. Further, the respondents have also submitted that in the seniority list respondent No.4 was much above the applicant. This contention has not been disputed by the applicant himself. As such, the claim

of the applicant for his promotion in preference to respondent No.4 does not have any merit.

7. In our opinion, it not necessary to go into the question whether the post of Senior Technician (Leather Technology) is falling under the purview of Rehabilitation Council of India or not and whether registration with that Council was required for professional discharging duties of this post. This is because the promotions are granted as per the provisions of Recruitment Rules and not as per the provisions of any other Act. If the Recruitment Rules were inconsistent with the provisions of Rehabilitation Council of India Act, the appropriate course of action of the official respondents would have been to amend the service rules to bring them in consonance with the Rehabilitation Council of India. However, till such amendments are carried out, the promotions would continue to be made on the basis of existing Recruitment Rules, even if it means that the promoted persons may not be recognized by Rehabilitation Council of India and may not be eligible to be called Rehabilitation professionals as per provisions of that Act.

7. In view of the above, this O.A. is devoid of merit and is dismissed. No costs.

**(Dr. Brahm Avtar Agrawal)**  
**Member (J)**

**(Shekhar Agarwal)**  
**Member (A)**

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