

**Central Administrative Tribunal
Principal Bench**

OA No. 2040/2015

New Delhi this the 12th day of October, 2015

**Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Dr. B.K. Sinha, Member (A)**

Dr. Sunil Kumar Arya,
S/o Late Sh. Udho Dass,
Aged 59 years,
R/o H.No.427, Sector-7,
Urban Estate, Gurgaon,
Haryana

-Applicant

(By Advocate: Ms. Bimla Devi for Mr. A.K. Behera along with applicant in person)

VERSUS

1. Union of India,
Through its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan,
New Delhi-110011
2. Union Public Service Commission,
Through its Secretary,
Dholpur House, Shahjahan Road,
New Delhi-110011

-Respondents

(By Advocates: Mr. Sunil Ahuja for respondent no.1
Mr. Girish Pande for Mr. Ravinder
Aggarwal for respondent no.2.

ORDER (Oral)

By Mr. A.K. Bhardwaj, Member (J):

The prayer made in the present OA filed under Section 19 of the Administrative Tribunals Act, 1985, read thus:-

“A. Call for the records of the case.

- B. Direct the Respondents to grant Senior Administrative Grade to the applicant w.e.f. 22.10.2011 under DACP scheme with all consequential benefits in a time bound manner.
- C. Direct the Respondents to complete the aforesaid exercise expeditiously much before the impending retirement of the applicant on 30.09.2015.
- D. Direct the respondents to give all consequential benefits to the applicant.
- E. Any other order or direction, which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case may kindly be passed in favour of the applicant.
- F. Cost of the present case may be awarded in favour of the applicant.”

2. In the counter reply filed on behalf of the respondents, it has been categorically averred that the proposal to hold DPC for promotion to SAG for the years 2009-10 to 2013-14 has already been sent. The relevant excerpt of the reply read thus:-

“4.5It may be mentioned here that time-bound promotions to SAG level under DACP scheme were not part of the old statutory RRs i.e. CHS Rules, 1996, which were in force at the time of panel years upto, 2013-14. The Statutory Rules provides for promotion to SAG subject to availability of vacancies. The provision for DACP has been incorporated only in the amended RRs, i.e. CHS Rules, 2014. In view of the above, it was taken that if DPCs for the 2009-10 to 2013-14 are convened as per CHS Rules, 1996, the benefits of DACP scheme, which is applicable w.e.f. 29.10.2008 in terms of executive order issued vide OM dated 29.10.2008 cannot be made applicable for these panel years.

Therefore, UPSC was requested to advice on convening meeting of DPC under the chairmanship of the UPSC for considering promotions to SAG level for the panel years 2009-10 to 2013-14. Vide letter dated 05.06.2015, UPSC has conveyed its approval

for convening of DPC for promotion to SAG level, for the panel years 2009-10 to 2013-14 (Annexure-IV).

Accordingly, this ministry is in the process of taking up the proposal for promotion of GDMOs for the panel years 2009-10 to 2013-14.

Therefore, the contention of the applicant that the respondents have not taken any steps to grant SAG promotion to the applicant and others similarly situated is factually wrong and cannot be accepted.

4.6 As per Dynamic Assured Career Progression (DACP) for Supertime Administrative Grade (SAG) promotions implemented by the Ministry with effect from 29.010.2008 (*sic*), Chief Medical Officers (Non-Functional Selection Grade) having 7 years of service is eligible for promotion to SAG. The applicant having completed 7 years of service as Chief Medical Officer (Non-Functional Selection Grade) has become eligible for promotion to SAG level from 22.10.2011, subject to being found fit for promotion to that grade by the Departmental Promotion Committee and further subject to the approval of the Appoints Committee of the Cabinet. The promotion from one grade to another grade is considered for all officers who become eligible during the year. Thus the applicant, along with other eligible officers, were considered for promotion to SAG level in the meeting of the Departmental Promotion Committee (DPC) held in the Ministry of Health and Family Welfare under its Chairmanship on 04.09.2014, as per the revised CHS Rules, 2014. The recommendations of the Departmental Promotion Committee was submitted to the Department of Personnel and Training for approval of the ACC vide the respondent Ministry's Office Memorandum No. A32012/10/2014-CHS.II dated 26.12.2014 (ANNEXURE-III). The DoPT/ACC, however, did not accept the proposal stating that the CHS Rules, 2014 are effective from the date of their publication in the gazette notification 07.04.2014. Therefore, DPCs convened in the Ministry for promotion in the years prior to 2014-15 as per CHS Rules, 2014 were not in order. The DPCs for these panel years need to be held as per the provisions of the RRs applicable at that time. The DoPT has accordingly directed the Ministry to

reconvene these DPCs upto 2013-14 under the Chairmanship of UPSC in terms of the RRs applicable at that time and convene DPCs in Ministry of the panel years 2014-15 onwards.

2. Learned counsel for the respondents also categorically that the applicant is eligible for his consideration for promotion to the Grade and if found fit by the DPC, for which proposal has been initiated, he would be given promotion from due date.

3. In view of the stand taken in the counter reply and the submissions made by the learned counsel for the respondents, the respondents are directed to finalize the consideration of the applicant for his promotion from due date within eight weeks from the date of receipt of a copy of this order and if he is found fit for promotion, to give him consequential benefits within further four weeks.

The OA stands disposed of. No costs.

(Dr. B.K. Sinha)
Member (A)

(A.K. Bhardwaj)
Member (J)

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