

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.1251/2013

**Order Reserved on : 14.08.2018
Pronounced on : 23.08.2018**

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)**

Dr. R. R. Gautam S/o late Meva Lal,
R/o E-82, MCD Officers Qtrs.,
Thomson Road,
New Delhi-110002. Applicant

(By Mr. Amit Anand, Advocate)

Versus

1. Commissioner, North Delhi Municipal Corporation, Dr. S.P.M. Civic Centre, J. L. Nehru Marg, New Delhi-110002.
2. Dr. Vijay Prakash
3. Dr. Lallan Ram
4. Dr. R. N. Tuli Respondents

(Respondents 2 to 4 are working as Medical Officers (Public Health) & to be served through respondent No.1 and they have been impleaded in the representative capacity as the total number of medical officers in the same category are 24).

(By Mr. R. V. Sinha and Shri Amit Sinha, Advocates)

O R D E R

Justice L. Narasimha Reddy, Chairman :

The applicant was initially appointed as General Duty Medical Officer-II (GDMO-II), in the North Delhi Municipal

Corporation, the 1st respondent herein. Thereafter, he was promoted to the post of GDMO-I in the Pay Band-III + Grade Pay Rs.6600/- w.e.f. 27.06.1995, and to the post of CMO in Pay Band-III + Grade Pay Rs.7600/- w.e.f. 27.06.2001. As of now, he is holding the post of CMO (NFSG) in Pay Band-IV + Grade Pay Rs.8700/- w.e.f. 27.06.2005.

2. The applicant submits that along with him, several other Doctors were recruited in the 1st respondent Corporation, and many of them, who were juniors to him, have been conferred with the benefit in such a way that they would make it to the Senior Administrative Grade (SAG) far ahead of him. He made reference to the office order dated 18.04.2012 (Annexure-1), through which as many as 24 Doctors in the Public Health Wing of the respondent Corporation were granted various grades, such as PH Sr. Scale, NFSG/Spl. Gr-I(PH), and SAG, with effect from different dates. It is contended that though all of them were juniors to him at the time of initial recruitment, they have been conferred undue benefit in contravention of relevant recruitment rules. Reference is made to a tripartite agreement in relation to the service conditions of the Medical Officers in the Corporation. Ultimately, the relief in the form of a direction to the

respondents to promote the applicant in the same pattern as was extended to the Doctors who were initially junior to him, by promoting him to the grade of CMO (NFSG) w.e.f. 05.04.2002, and to the grade of CMO (SAG) w.e.f. 05.04.2009 with retrospective effect and consequential benefits, or, in the alternative, to quash and set aside the office order dated 18.04.2012 (Annexure-1), is claimed.

3. On behalf of the Corporation, a detailed counter affidavit is filed. It is stated that in the Medical Department of the Corporation, there are three separate Wings, namely, GDMO, Public Health, and Specialist Grade, and the service conditions, avenues of promotion and qualifications for promotion in these categories are distinct from each other. It is stated that the entry into PH category is from the grades such as GDMO-I or GDMO-II, depending upon the postgraduate degree or diploma qualification held, and requisite length of service, put in by them. It is contended that the applicant, at one point of time, was considered for transfer to the PH category, but was found to be not eligible. It is also stated that the various Medical Officers named by the applicant, were granted promotions in accordance with rules, and the applicant

cannot complain about the happenings in the other Wings, which are governed by totally different set of recruitment rules.

4. Respondents 2 to 4 also filed separate counter affidavits on the same lines.

5. We heard Mr. Amit anand, Learned counsel for the applicant, and Mr. R. V. Sinha, learned counsel for the respondent No.1.

6. At the outset, one aspect needs to be dealt with. As an alternative prayer, the applicant challenged the office order dated 18.04.2012. In the said proceeding, as many as 24 Doctors of the PH wing of the Corporation were conferred the benefit of promotion, on the basis of the recommendation made by the screening committee. It was essential that all the 24 Doctors who figured therein are made parties to the OA. However, the cause title of the OA, insofar as it relates to the respondents, reads as under:

- “1. Commissioner, North Delhi Municipal Corporation, Dr. S.P.M. Civic Centre, J. L. Nehru Marg, New Delhi-110002.
- 2. Dr. Vijay Prakash
- 3. Dr. Lallan Ram
- 4. Dr. R. N. Tuli”

Rule 4 of the Central Administrative Tribunal (Procedure) Rules, 1987, deals with the procedure for filing applications, and that in turn, refers to Form I of the Schedule. As regards description of the respondents, the relevant column in for form reads as under:

“C.D. (add description and the residential or official address on which the service of notices is to be effected on the respondent or respondents. The details of each respondent are to be given in a chronological order.) ... RESPONDENT”

7. There is a definite purpose in requiring the applicants in an OA to implead the affected persons as respondents, and to furnish their addresses for service of notice. Such respondents need to be given opportunity to defend themselves, particularly when the prayer is to set aside an order, which is in their favour.

8. Viewed in this context, the OA filed by the applicant is defective. However, we do not propose to deny relief to the applicant because of this defect.

9. The record discloses that there are three branches in the Health Department of the respondent Corporation, namely, (1) GDMOs cadre; (2) Specialists cadre; and (3) Public Health cadre. The method of induction into these three categories, and

the avenues of promotion in them are substantially different. For example, while the posts of GDMOs are filled through direct recruitment, with the help of Union Public Service Commission, the entry into the PH category is by way of promotion from GDMOs, who hold the stipulated qualifications, or, by deputation/transfer from other departments. The avenues of promotion are briefly as under:

GDMO cadre

GDMO-II : Initial appointment;

GDMO-I : on completion of four years as GDMO-II;

CMO : on completion of five years as GDMO-I;

CMO (NFSG) : on completion of four years as CMO;

SAG : on completion of seven years as CMO (NFSG).

Specialist cadre

Specialist Grade-II (Junior Scale) : initial appointment;

Specialist Grade-II (Senior Scale) : on completion of two years as Specialist Grade-II (Junior Scale);

Specialist Grade-I : on completion of four years as Specialist Grade-II (Senior Scale);

SAG : on completion of seven years as Specialist Grade-I.

The movement from one post to another in Public Health cadre is substantially different. The induction is from -

- (i) GDMO-II with five years regular service, and diploma in Public Health; and
- (ii) GDMO-I with diploma/postgraduate qualification in Public Health, with experience of two years in case of degree holders, and four years in case of diploma holders.

Further, the promotion is on the basis of recommendation by the DPC.

10. The grievance of the applicant is that the persons mentioned in the impugned order dated 18.04.2012 were recruited as GDMOs along with him, and at a relatively early point of time they have reached the SAG grade, whereas he is still in a lower category. This comparison is totally misplaced. A Doctor in the GDMO category cannot compare himself with the Doctor in another branch, when the method of induction and the mode of forward movement in that category are substantially different. The applicant does not dispute that a Doctor in specialist cadre would move to the SAG almost within 11 or 12 years, whereas the one in GDMO category would take nearly 20 years to reach that level. When he does not have any qualms vis-à-vis the Doctors in Specialist cadre, there is no reason why he should have such a grievance against those in the Public Health cadre.

11. Another facet of the argument of the applicant is that some of the private respondents have been extended the benefit of the SAG, or a feeder post to that, even before they have completed the stipulated length of service in the feeder categories. On a cursory reading of the impugned order, this may appear to be true. However, a perusal of the minutes of the screening committee dated 17.11.2011 discloses that the preparation of the list as reflected in the impugned order was the result of the implementation of the orders passed by various Courts and Tribunals. The concerned Doctors were assigned the places, which they are otherwise entitled to. The DPC itself was delayed, and a notional exercise had to be undertaken for enforcing the orders passed by the Tribunal/High Court/ Supreme Court. In this scenario, we cannot take exception to the impugned order, nor can we grant the relief which the applicant prayed for.

12. The OA is accordingly dismissed. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/