

**Central Administrative Tribunal
Madras Bench**

OA 310/01637/2018

Dated Wednesday the 12th day of December Two Thousand Eighteen

P R E S E N T

**Hon'ble Mr. R.Ramanujam, Member(A)
&
Hon'ble Mr. P. Madhavan, Member (J)**

Dr. K. Ramya Thangam
Chief Medical Officer
ESIC Hospital
K.K. Nagar, Chennai – 600 078. Applicant

By Advocate M/s. E.Maragatha Sundari

Vs.

1.Union of India,
rep by,
The Secretary of Labour,
Government of India,
Rafi Marg, New Delhi 110001.

2.Director General,
ESI Corporation,
C.I.G Road,
New Delhi 110002.

3.Medical Commissioner,
ESI Corporation,
C.I.G Road,
New Delhi 110002.

4.Dean,
ESIC Hospital,
K.K.Nagar,
Chennai 600078. Respondents

ORAL ORDER

Pronounced by Hon'ble Mr. R. Ramanujam, Member(A)

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

“To quash the findings of the DPC meeting held on 12.03.2018 and the consequent order No. A-33/14/2/2009/Med-IV/DPC dated 02.04.2018 in respect of the applicant and direct the respondents 2 & 3 to hold a meeting of the Review DPC to consider the case of the applicant afresh for financial upgradation to the cadre of NFSG, with reference to Rule 6(4) of the Central Health Service Rules, 2014, after permitted her to appeal against the decision of the Medical Superintendent communicated to her in the Letter No. 512/A/29/13/2010-Admn dated 04.07.2011 with reference to the assessment and gradings recorded in her APAR of the year 2009-10.”

2. It is submitted that the applicant had been superseded for promotion to the post of Chief Medical Officer in the Annexure A12 impugned order dated 02.04.2018 by which 77 persons had been granted promotion to NFSG. When the applicant represented against her supersession, the respondents passed Annexure A15 order dated 27.07.2018 wherein it was stated that the applicant was awarded a grading of “4.53” in the year 2009-10 which was below the benchmark for the year 2009-10.

3. Attention is drawn to Annexure A3 OM of the Ministry of Health and Family Welfare dated 08.07.2010 by which certain officers belonging to the CHS were given an opportunity to represent against below Benchmark grading even if there were no adverse remarks against the officer concerned. It is submitted that the respondents ought to have followed a similar procedure in the case of the

applicant also.

4. The applicant was allegedly not aware of the below benchmark grading of 4.53 for the year 2009-10 on account of which she could not represent thereagainst in time. Counsel for the applicant would further allege that the applicant was not informed of the below Benchmark grading because the grading was considered adequate at the relevant time in terms of the prevalent norms. If the respondents revised the norms subsequently and found that the applicant was below Bench Mark in the particular year, she ought to have been given an opportunity to represent. Accordingly, the applicant would be satisfied if she is allowed to represent against the grading in the said year and seek upgradation thereof.

5. We have considered the submission. As the applicant alleges that she was never informed of her below benchmark grading in the relevant year, we are of the view that the applicant could be given an opportunity to represent against the same if the allegation is factually correct. Accordingly, the respondents are directed to examine if the applicant was informed at the relevant time of the below Benchmark grading and if not, now provide the opportunity to represent against the same. On receipt of such representation, the competent authority shall consider the same on merits and an appropriate order may be passed within a period of three months thereof.

6. OA is disposed of at the admission stage.

(P. Madhavan)
Member (J)

12.12.2018

(R. Ramanujam)
Member(A)

AS