

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A./100/3524/2014

New Delhi, this the 30th day of April, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Dr. C.P. Sharma S/o Late Shri Gian Chand
H.O.D. (Radiology) (Retired)
Hindu Rao Hospital
R/o B-1/3, Ashok Vihar,
Phase-II, Delhi-110052 ... Applicant

(Through Shri D.S. Mahendru, Advocate)

Versus

1. Municipal Corporation of Delhi,
(North Zone)
Dr. Shyama Prasad Mukherjee Marg
Civic Centre, Minto Road,
Delhi-110002
2. Medical Superintendent
Hindu Rao Hospital, Delhi
3. Dr. Madhur Kudesia
Medical Superintendent (retired)
Hindu Rao Hospital
Now resident of
Flat No.101, Konark Apartments,
DDA Flat, Kalkaji, Delhi

(Through Shri K.M. Singh and Shri R.V. Sinha, Advocates)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicant joined the service of the medical department of Delhi Municipal Corporation in the year 1982 and by the year 2000, he became Head of the

Department of Radiology of Hindu Rao Hospital. His case was considered for promotion to Senior Administrative Grade (SAG) in the year 2010. However, on finding that two out of five relevant ACRs of the applicant were below the bench mark, he was declared 'unfit' by the Departmental Screening Committee (DSC) (the applicant called it Departmental Promotion Committee). Shortly thereafter, the two below bench mark ACRs of the applicant were upgraded by the Additional Commissioner. In view of this development, the applicant approached this Tribunal by filing OA 1271/2011 with a prayer to direct the respondents to convene a review DSC. The OA was disposed of on 22.11.2011 directing the respondents to constitute a review DSC to consider the case of the applicant for promotion to SAG.

2. The review DSC which met on 8.07.2013, took the view that upgradation of two ACRs was not justified. Accordingly, it declared the applicant as unfit for promotion. The applicant filed this OA with a prayer to quash the order dated 8.07.2013 passed by the review DSC.

3. The applicant contends that there was no justification for the review DSC to downgrade his ACRs, once the competent authority upgraded the same.

4. The respondents filed counter affidavit opposing the OA. It is stated that in compliance of the directions issued by this Tribunal, the review DSC considered the case of the applicant and took the view that he is 'unfit' for promotion to the SAG.

5. We heard Shri D.S. Mahendru, for the applicant and Shri K.M. Singh and Shri R.V. Sinha, for the respondents.

6. At one stage, on 26.11.2018, the matter was heard at some length and a direction was issued to the respondents to conduct another review DPC. It is brought to our notice that review DSC was convened on 23.01.2019 and through its detailed minutes, it declared the applicant 'unfit' for promotion to SAG.

7. There was some uncertainty as to whether the case of the applicant was being considered for regular promotion or just placement in the SAG. It was also doubted whether the nomenclature of the Committee should be DPC or DSC. In view of the detailed

explanation given in the minutes dated 23.01.2019, it is clear that it was not a case of promotion but placement in the SAG. Accordingly, it was DSC, that was convened from time to time.

8. It is no doubt true that at one stage, the promotion was denied to the applicant in view of two ACRs being below bench mark and that the said ACRs have been upgraded later on. The fact, however, remains that the very officer who upgraded the ACRs namely Dr. Madhu Jain was part of DSC which met on 24.09.2010 and took the view that the upgradation was not proper. It is an unfortunate development. However, the independent view, expressed by the review DSC, which met on 23.01.2019, cannot be found fault with. It is fairly well settled that Court cannot sit in appeal, over the findings recorded by a competent administrative authority, as long as the prescribed procedure was followed.

9. We do not find any ground to interfere with the impugned order. The OA is, therefore, dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman