

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

RA No. 184/2019

OA No. 3078/2017

New Delhi this the 11th day of October, 2019

Hon'ble Sh. Pradeep Kumar, Member (A)

Dr. Yogendra Prakash,
Aged about 60 years,
S/o Late Brij Mohan Lal,
R/o B-150, Amar Colony,
Lajpat Nagar-4, New Delhi.

.. Applicant

(By Advocate : Sh. Amit Anand)

Versus

1. Commissioner
North Delhi Municipal Corporation,
Civic Centre, Minto Road,
New Delhi.

2. Medical Superintendent
Girdhari Lal Maternity Hospital
Ajmeri Gate,
New Delhi.

...Respondents

(By Advocate : Sh. D.S. Mahendru)

ORDER (ORAL)

1.0. In the instant case, the applicant was working as a General Duty Medical Officer under MCD. Subsequently, UPSC notified certain vacancies for Specialists cadre. Those working as GDMO in MCD as well as other organizations, could apply for the said post of Specialists.

The applicant also applied and he was selected for the Specialist cadre. His salary was fixed with stipulation that

in case of any excess payment, the said amount shall be recoverable.

2.0. In due course, audit inspection reported that salary was incorrectly fixed at a higher level and accordingly certain recoveries were ordered. The applicant felt aggrieved and filed OA No. 3078/2017, which was decided on 19.12.2018. The averment made by the applicant was that his pay fixation was correctly fixed under Fundamental Rule -22(a)(1), and accordingly recoveries were not called for. The OA was eventually dismissed.

3.0. The applicant has preferred the instant RA, seeking review of those orders and pleaded that the issue on merit, whether the salary was correctly fixed under FR 22(a)(1), was not adjudicated.

4.0. The matter has been heard. Sh. Amit Anand, learned counsel represented the applicant and Sh. D.S. Mahendru, learned counsel represented the respondents.

5.0. It is noted that the issue regarding claim of the applicant of correct fixation of salary under the FR 22(a)(1), was noted by the Tribunal in para 2 of the judgment and thereafter while discussing the same in para 12.1 and 12.2 also. It was only thereafter, that OA was dismissed.

6.0. Accordingly, the plea put forth by the applicant now that the Tribunal had not adjudicated on merit in regard to FR

22(a)(1), cannot be accepted. The issue raised now has already been adjudicated and decided.

7.0. In view of the foregoing, the RA preferred by the applicant is not maintainable. The same is dismissed. Applicant has liberty to approach appropriate forum and seek remedies as per law. No costs.

(Pradeep Kumar)
Member (A)

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