
(2020) 11 CAT CK 0028

In the Central Administrative Tribunal

Case No : Original Application 100, 541 Of 2020

Dr.Sanjiv Mahajan

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 05-11-2020

Acts Referred:

Citation : (2020) 11 CAT CK 0028

Hon'ble Judges : L. Narasimha Reddy, J;Aradhana Johri, Member (A)

Bench : Division Bench

Advocate : Sachin Chauhan, Vijendra Singh

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicant was appointed as General Duty Medical Officer (GDMO) in the Central Health Services in the year 1999.He was promoted to the rank of Senior Medical Officer in the year 2002 and as Chief Medical Officer 2007. Since 2014, he is working in the Department of Nephrology in the Safdarjung Hospital.

2. On 18.03.2019, the Medical Superintendent of the Safdarjung Hospital, designated/nominated Dr.Himanshu, Associate Professor, Department of Nephrology, the 3rd respondent herein, as Head of Department. Earlier to that, the applicant made representations to the administration of the Hospital, with a request to appoint him as Head of Department of Nephrology. Through the letter dated 28.12.2018, the applicant was informed that he is from GDMO category and the Head of Departments are nominated from the Teaching or Non-teaching specialists who have equated Teaching designation, and in that view of the matter, his request cannot be considered.

Similar replies were given earlier also.

3. This OA is filed challenging the order dated 18.03.2019, the communication dated 28.12.2018, and for a direction to the respondents to designate the applicant as Head of Nephrology Department.

4. The applicant contends that he is senior to the 3rd respondent and holding Post Graduate qualification in the field of Nephrology and that there was absolutely no basis for ignoring his claim.

5. On behalf of the respondents 1 and 2, a counter affidavit is filed. It is stated that the "Head of Department (HOD)" is relevant only in the context of teaching in the Medical College and Hospitals, and by convention, it is only the members of the Teaching fraternity or the Non-teaching specialists with equated Teaching designation, that are chosen for being nominated as Head of Department. It is stated that though the applicant is a Post Graduate in same field, he continues to be under the category of GDMO and that he does not hold the equated Teaching designation. It is stated that the applicant was informed accordingly from time to time, and that the OA deserves to be dismissed. Various contentions raised by the applicant are opposed.

6. The applicant filed a rejoinder dealing with the contents of the counter affidavit.

7. We heard Mr.Sachin Chauhan, learned counsel for the Applicant and Sri Vijendra Singh, learned Counsel for the Respondents 1 and 2.

8. It is not in dispute that the applicant was appointed as GDMO and he remains in the same category, though he earned promotions as Senior Medical Officer and Chief Medical Officer.

9. In the Central Health Services, the GDMO and Specialists constitutes one category, whereas the Teaching category is a separate one. The post of Head of Department is mostly connected with the teaching activity. Obviously, for that reason, the Senior most in the teaching faculty are chosen for that purpose. Over the years, facilities also provided for designating Specialist Doctors and some time GDMOs also as Head of Department. That was resorted to when (a) Non-availability of senior person from teaching category is not available, and (b) the Specialist or GDMO possessed equated teaching designation.

10. The applicant has furnished the names of several GDMOs and Specialist Doctors, who were designated as HODs earlier. The respondents,

however, stated that it is only such of the GDMOs or Specialists, who had equated Teaching designation that were chosen as HOD, and that at no

point of time, a non-designated GDMO was appointed.

11. The 3rd respondent is an Associate Professor, and is from teaching category, whereas the applicant is from the category of GDMO. Once an

eligible candidate from the teaching category is available, the question of looking to the other categories does not arise. The inter se seniority is only

among the members of the same category. There cannot be a relative or inter se seniority between the teaching category on the one hand and GDMO

category, on the other. The applicant is not able to point out any instance of a GDMO without equated Teaching designation, having been chosen as

HOD.

12. We do not find any merit in the OA and the same is accordingly dismissed. There shall be no order as to costs.