

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**



**O.A. No. 3682/2019
M.A. No. 4070/2019
M.A. No. 4071/2019**

New Delhi, this the 19th day of December, 2019

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

1. Neelima Azhamchalil Moonnambeth,
Aged 43 years,
D/o A. Sreedharan,
Botanical Assistant,
Botanical Survey of India,
Western Regional Centre, Pune
R/o E-31, NCL Colony,
Dr. Homibhabha Road,
Pune-411008, Maharashtra.
2. Anant Kumar,
Aged 36 years,
S/o Malkhan Singh,
Botanical Assistant, HQRS, BSI
Address for Communication:
Central National Herbarium,
2nd Floor Hall-3,
Botanical Survey of India,
P.O. Botanic Garden,
Howrah-711103.
3. Vijay Kumar Mastakar,
Aged 39 years,
S/o (Late) Shri Haridas Mastakar,
Botanical Assistant, HQRS, BSI
R/o Flat No. 307, Amritdham Apartment,
Nitya Nand Nagar,
Near Bakultala Check Post,
Andul Road, Howrah-711109 (W.B.).



4. Shyam Biswa,
Aged 40 years,
S/o (Late) Kabiraj Biswa,
Botanical Assistant, CNH, BSI
R/o 1/5/6, B.G. Lane Botanical Garden,
Howrah-711103.
5. Arvind Parihar,
Aged 38 years,
S/o Shri Radheshyam Parihar,
Botanical Assistant, HQRS, BSI
R/o 30/4, Andul Road,
Howrah-711109.
6. Saurabh Sachan,
Aged 35 years,
S/o Virendra Sachan,
Botanical Assistant, CNH, BSI
Address for Correspondence:
Central National Herbarium,
2nd Floor Hall-4,
Botanical Survey of India,
P.O. Botanic Garden, Howrah-711103.

(All applicants are of Group 'B')

.. Applicants

(By Advocate : Shri Romil Pathak)

Versus

1. Union of India,
Through Joint Secretary to
Ministry of Environment,
Forest and Climate Change,
New Delhi.
2. Director,
Botanical Survey of India,
C.G.O. Complex, 3rd MSO Building,
Block F, 5th & 6th Floor,



DF Block, Sector I,
Salt Lake, Kolkata-700064.

.. Respondents

(By Advocate : Shri Sanjeev Yadav)

O R D E R (ORAL)

Justice L. Narasimha Reddy, Chairman

The applicants were initially appointed as Preservation Assistants in the Botanical Survey of India (BSI) in the year 2006. Promotion from that post used to be Botanical Assistant Grade-II. Eligibility was completion of 3 years service in the feeder category.

2. A DPC was convened for promotion to the post of Botanical Assistant Grade-II in the year 2009. However, since the applicants were not eligible by that time, they were not considered. Thereafter, no DPC was convened and, in the meanwhile, the merger of posts of Botanical Assistant Grade-I and Grade-II took place, on the basis of the recommendation of the VI Central Pay Commission. The Recruitment Rules were amended, providing for direct recruitment as well as promotion to the post of Botanical Assistant. It was in the year 2016,



that the applicants were promoted to the post of Botanical Assistant.

3. A Seniority list for the post of Botanical Assistant was issued on 04.07.2018. The applicants were shown at Sl.Nos. 34 to 39. The applicants submitted a representation, ventilating their grievances. According to them, they were entitled to be promoted to the post of Botanical Assistant Grade-I on completion of 3 years of service as Botanical Assistant Grade-II, and the delay in making promotions cannot be permitted to deny them, the actual seniority. Other contentions are also urged.

4. Through a reply dated 09.04.2019, the respondents stated that the applicants were considered for promotion in accordance with the relevant rules, and no deviation has taken place. This O.A. is filed with a prayer to quash and set aside the reply dated 09.04.2019 and seniority list dated 04.07.2018.

5. We heard Shri Romil Pathak, learned counsel for the applicants and Shri Sanjeev Yadav, learned counsel



for the respondents, at the stage of admission, at length.

6. The initial appointment of the applicants was as Preservation Assistant. Promotion from that post was to the post of Botanical Assistant Grade-II. However, before that took place, the re-organisation of the post of Botanical Assistant Grade-II took place; and that was merged with the post of Botanical Assistant Grade-I, as Botanical Assistant. The post of Preservation Assistant was also redesignated as Senior Preservation Assistant.

7. The Recruitment Rules were notified only on 04.12.2015. Shortly thereafter, promotions were made in March, 2016. Earlier to that, the posts were filled only through direct recruitment. Before that, quite large number of persons were appointed as Botanical Assistant through direct recruitments, between 2009 and 2015. The applicants were placed immediately below them. It is just ununderstandable, as to how the applicants can expect any place above the direct



recruits, appointed earlier to them. Therefore, no exception can be taken to seniority list.

8. In the representation made by the applicants, the grievance was mostly about the delay in consideration of their cases for promotion. They stated that had a DPC been convened in the year 2010-11, they would have been promoted. All that is, in the realm of speculation. No administration can be compelled to hold a DPC at a particular time. Much would depend on existence of vacancies, administrative exigency or convenience. An employee has to take a chance, as and when it is convened. At any rate, there cannot be a deemed promotion, just because the convening of DPC was delayed.

9. We do not find any merit in the O.A. and, accordingly, the same is dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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