

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**RA No-113/2019 in
OA No-3576/2018
MA No-1587/2019
MA No-1588/2019**

New Delhi, this the 28th day of February, 2020



**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Ashish Kumar
 Aged about 44 years, Group C
 s/o Sh. Rewat Ram
 R/o 24, Type II Arts., Masjid Moth
 AIIMS Residential Campus
 New Delhi-49
 (Working as Medical Record Technician)
 Room No. 1, EHS OPD, Near RAK OPD
 AIIMS Hospital, Ansari Nagar
 New Delhi-110029. ... Applicant

(through Sh. Amit Anand)

Versus

1. The Director
 All India Institute of Medical Sciences (AIIMS)
 Ansari Nagar, New Delhi-110029.
2. The Administrative Officer
 Recruitment Cell
 All India Institute of Medical Sciences (AIIMS)
 Ansari Nagar, New Delhi-110029. ... Respondents

(through Sh. V.S.R. Krishna with Ms. Arti Bansal)

ORDER(ORAL)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

MA No. 1588/2019

This application is filed with a prayer to condone the delay of 115 days in re-filing the RA.



In view of the reasons mentioned in the MA, the MA is ordered and the delay is condoned.

MA No. 1587/2019

This application is filed with a prayer to condone the delay of 27 days in filing the RA. The applicant states that the delay occurred in the process of obtaining opinion and making arrangements for filing the application thereon. No counter affidavit is filed.

Having regards to the facts and circumstances of the case, MA is ordered and the delay is condoned.

RA No. 113/2019

The applicant is working as Medical Record Technician in the All India Institute of Medical Sciences (AIIMS). Appointment to the next higher post of Medical Record Officer is through promotion, failing which, by direct recruitment. In the year 2013,



the administration intended to fill the said post but, on finding that there are no qualified and eligible candidates for promotion, an advertisement was issued for direct recruitment. The applicant is one of the candidates, who responded to the advertisement. However, by the year 2015, there was no progress whatsoever, in the matter and process was given up by observing that, eligible candidates for promotion are available. Aggrieved by that, the applicant filed OA No. 3576/2018, challenging the notification through which the advertisement for direct recruitment was cancelled. Various grounds were raised; and the Tribunal dismissed the OA through order dated 27.09.2018. Review thereof is sought.

2. We heard Sh. Amit Anand, learned counsel for the applicant and Sh. V.S.R. Krishna, learned counsel for the respondents.

3. The plea of the applicant that the vacancy must be filled with reference to each year and eligibility must be ascertained with reference to that year, becomes relevant only when the Rule provides for appointment through promotion as well as direct recruitment. Even that is for the determination of inter se seniority between direct recruits and promotees. When the Rule provides for only one method and the other is only an alternative, the principle does not become relevant.

4. The Tribunal was of the view that, it is the prerogative of an employer whether or not to proceed with the selection process. Learned counsel for the applicant is not able to point out any factual or legal error in the order. We do not find any basis to review the order dated 27.09.2018. The RA is, accordingly, dismissed.



(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ns/