

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 1419/98

New Delhi this the 12th day of August 1999

(3)

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)
Hon'ble Mr. R.K. Ahooja, Member (A)

Dr. Manisha Sanyal Sarkar
W/o Shri R.N. Sarkar,
R/o 972, Kamla Nehru Nagar,
Ghaziabad.

..Applicant

(By Advocate: Shri M.L. Sharma)

Versus

Union of India through

1. Secretary to Govt. of India,
Ministry of Health & Family Welfare,
(Department of ISM & H)
Red-Cross Building, New Delhi

...Respondent

(By Advocate: Shri N.S. Mehta)

ORDER (Oral)

By Hon'ble Mr. R.K. Ahooja, Member (A)

The applicant who joined as a Scientific Officer on 8.8.85 under the respondents is aggrieved by the respondents' action in advertising the post of Senior Scientific Officer for the respondents' Laboratory in Ghaziabad, on the basis of deputation, ignoring the claim of the applicant to be promoted against the same post.

2. We have heard the counsel. Shri N.S. Mehta learned counsel for respondents submits that the post of Senior Scientific Officer under the Homoeopathic Pharmacopocia Laboratory Ghaziabad had fallen vacant on account of the transfer of regular incumbent Dr. D.R. Lahar w.e.f. 27.11.97 for a period of four years. Shri Mehta submits that the

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Department of Personnel & Training were consulted as to how to fill up the temporary vacancy and the latter had advised that the post may be filled by deputation as it was not available on a long term basis.

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3. We find from the perusal of the recruitment rules that the post of Senior Scientific Officer is to be filled up on the basis of promotion failing which by deputation and in the event of both the methods failing then by direct recruitment. The method of promotion has not been explored on the ground that it was not a long term substantive vacancy.

4. The first method of recruitment is by promotion, the applicant is the senior most Scientific Officer and it is admitted by the respondents that she has qualified for being considered for the post of Senior Scientific Officer. Merely because the vacancy is available only for limited period of four years and also because she cannot apply for the post of deputation being in the department itself, she is being deprived of the benefit of the higher post. This is in a situation where it appears that the applicant has been looking after the functions of Senior Scientific Officer as evident from the copy of the office order of the respondents dated 19.11.97.

5. In the aforesaid facts and circumstances we direct the respondents to consider the case of the applicant for appointment as Senior Scientific

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Officer by temporary promotion or on an adhoc basis for the limited period for which the post is available. We note that already one and half years have passed since the post fell vacant. It will now be available only for a further period of two and half years or so.

(5)

6. No costs.

Replies -

~~(R.K. Ahooja)~~
~~Member (A)~~

Introducing

(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.