



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

O.A. No.3338/2015

Through video conferencing

Tuesday, this the 15th September, 2020

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

Mohinder Singh-Peon
S/o late Amar Chand
Aged 54 years
R/o 43-C, Pocket-D
DDA Janata Flats
Kondli, Mayur Vihar Phase-III, Delhi. ... Applicant

(Through Mr. Apurb Lal, Advocate)

Versus

1. Indian Council of Medical Research
Through its Director General cum Secretary
V. Ramalingaswami Bhawan
Ansari Nagar, Post Box No. 4911
New Delhi-110029.
2. The Director
Institute of Cytology and Preventive Oncology
Plot No-I-7, Sector-39
Noida-201301, UP. ... Respondents

(None appeared for the respondents)



O R D E R (ORAL)

Justice L. Narasimha Reddy:

The applicant joined the service of Indian Council of Medical Research (ICMR), the 1st respondent herein, as Peon/Attender on 31.05.1988. There is a provision for promotion of Peon/Attender to the post of Lower Division Clerk, (LDC) in a limited scale. The Recruitment Rules were framed in the year 2000. It is represented that in the post of LDC, 85% shall be filled through direct recruitment, 10% by holding the Limited Departmental Competitive Examination (LDCE) and 5% through promotion, on the basis of seniority cum fitness.

2. In the year 2014, 3 vacancies for the post of LDC have arisen. The respondents allocated two of them for direct recruitment and one, for LDCE. The applicant filed this OA challenging the action of the respondents. According to him, one post was available and it was subjected to be filled through promotion, whereas the respondents have diverted it to the other methods. He has also urged other contentions.

3. The respondents filed a reply to the OA. It is stated that the Recruitment Rules for the post are very clear in its purport, namely, 85% shall be through direct recruitment, 10% through LDCE and 5% through promotion on the basis of seniority cum fitness. According to them, the allocation of the posts in the year 2014 for different methods of recruitment was proper and



no illegality has taken place. It is also stated that the applicant has to take his turn for promotion as and when the post becomes available. They have also stated that the next available vacancy of Group 'D' is earmarked for promotion and the case of the applicant would also be considered.

4. We heard Shri Apurb Lal, learned counsel for applicant. There is no representation on behalf of the respondents. We perused the counter affidavit filed on behalf of respondents.

5. The claim of the applicant is to get promoted to the post of LDC. The vacancies, that are available to be filled through promotion, are 5%. In the year 2014, three vacancies have arisen and out of them, two were earmarked for direct recruitment and one for LDCE. It is stated that the applicant was not eligible to take part in the LDCE.

6. If one takes into account, the nature of allocation for three different categories, it is difficult to assume that any vacancy would be available for promotion when the total itself is three. Even the earmarking of the one vacancy to LDCE was by rounding of a fraction. The respondents have stated that the next available vacancy would be promotion on the basis of seniority cum fitness. The applicant can take a chance at that stage. As of now, we do not find any basis to find fault with the exercise undertaken by the respondents. At any rate, not only the selection was complete but also the persons, who were selected through LDCE, is said to have retired from service.



7. We, therefore, dismiss the O.A., however, by taking note of the submission made by the respondents in their counter affidavit that the next available vacancy shall be filled by way of promotion. Since the applicant is due to retire shortly, the respondents shall undertake the process of filling up the vacancies with two months from the date of receipt of a certified copy of this order.

There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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