

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/21/474/2017

HYDERABAD, this the 16th day of March, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



Prof. Munawwar Hussain Kazmi,
S/o. Rias Ahmad Kazmi,
56 years, Dy. Director (Unani) &
Officiating Director,
Central Research Institute of Unani Medicine,
A.G. Colony Road, Erragadda,
Hyderabad - 500 038.

... Applicant

(By Advocate: Mr. K. Sudhaker Reddy)

Vs.

1. Central Council for Research
In Unani Medicine,
Rep. by its Director General,
No.61-65, Industrial Area, Opp. D Block,
Janakpuri,
New Delhi - 110 058.
2. Governing Body,
Central Council for Research in Unani Medicine,
No.61-65, Industrial Area, Opp. D Block,
Janakpuri, New Delhi - 110 058
Rep. by its Chairman.
3. Union of India rep. by its Secretary,
Ministry of AYUSH,
Ayush Bhawan, B Block, GPO Complex,
INA, New Delhi - 110 023.

... Respondents

(By Advocate: Mrs. K. Rajitha, Sr. CGSC)

O R D E R (ORAL)

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

The applicant joined the service of the 1st respondent organization in 1985, as Assistant Research Officer (Unani). The next promotion is to the post of Deputy Director. The facility of In-Situ promotion to the post of Deputy Director was also created. Through Memo dated 31.03.2001, the applicant was granted In-Situ promotion to the post of Deputy Director w.e.f. 23.03.2001. Further promotion is to the post of Director, the eligibility to which is the completion of 5 years of regular service in the post of Deputy Director.

2. The applicant contends that though he was qualified and there existed vacancies in the post of Director, he is not promoted by the respondents. The 1st respondent issued notification dated 21.02.2017, inviting applications to the post of Deputy Director General. According to the recruitment rules, the appointment to that post is by promotion from the post of Director, failing which, by direct recruitment. The applicant filed this O.A., challenging the notification dated 21.02.2017. He contends that he was eligible to be promoted to the post of Director, on completion of 5 years service from 2001 and, there was absolutely no basis in not considering his case for promotion to the post of Deputy Director General.

3. The respondents filed a reply statement, opposing the O.A. It is stated that the applicant was extended the benefit of In-Situ promotion to the post of Dy. Director only on 22.09.2014, and that his eligibility for

promotion to the post of Director would accrue only on completion of 5 years service from that date, and not earlier to that.

4. We heard Sri K. Sudhaker Reddy, learned counsel for the applicant and Smt. K. Rajitha, learned counsel for the respondents.

5. The whole controversy is as to whether the applicant became eligible for promotion to the post of Director w.e.f. 23.03.2001 or 22.09.2014.

6. The applicant was extended the benefit of In-Situ promotion through order dated 31.03.2011 w.e.f. 23.03.2011. The preamble of the order reads as under:

„In partial modification to this Council’s Memorandum of even number dated 30.7.2009, 01.01.2010 and 15.03.2010 regarding implementation of Deptt. of Health (Group ‘A’ Gazetted non-Medical Scientist and Technical Post) In-Situ promotion Rules, President, Governing Body of the Council is pleased to extend the benefit of In-Situ promotion scheme to the eligible Medical Doctors and Non-Medical Scientists of CCRUM with a retrospective date of 23.03.2001 instead of 03.09.2008.

| S.No. | Name | Level from which upgradation is to be given | Levels of first In-Situ upgradation | Date of effect |
|-------|-----------------------|---|-------------------------------------|----------------|
| | | Scale of Pay | Scale of Pay | |
| 14 | Hakim Munawar H Kazmi | 8000-13500 (pre-revised) | 10000-15200 (Pre-revised) | 23.03.2001 |

7. The applicant was promoted on regular basis to the post of Deputy Director on 22.09.2014. It is fairly well settled that the anti stagnation measures, such as ACP, MACP, In-Situ promotion, non-functional upgradation enable the employees to draw higher emoluments, and sometimes, the pay scale attached to a promotional post, even while they continue to work in the feeder category alone. In other words, though the applicant was extended the benefit of In-Situ promotion through order dated

31.03.2011 w.e.f. 23.03.2011, he was placed in the pay scale attached to the post of Director, but continued to work as Deputy Director only. The concerned rules or the schemes provide that whenever the employee is actually promoted, there would not be any stepping up of the pay. The actual service in the higher post commences from the date on which he is actually promoted. That in fact, becomes relevant for the purpose of promotion to the higher post.

8. The recruitment rules for the post of Director provide the eligibility criteria for promotion as under:

o12. Grade from which recruitment by Promotion/: Promotion: With 5 years regular deputation transfer/ short term contract/ re-employment to be made

service as Dy. Director in the scale of Rs.10000-15200

Transfer on deputation (including short term contract) officers of the Central/ State Government including autonomous bodies

(i) Holding analogous posts on regular basis

(ii) (Deputation) with 5 years regular Service in the scale of Rs.10000-15200 or equivalent and possessing the qualification for direct recruitment

9. It is clearly mentioned that what is required is o5 years regular serviceö and not the drawing of pay scale at a particular rate. The inescapable conclusion is that the applicant was eligible for promotion to the post of Director, only on 29.09.2019, on which date, he completed 5 years of service in the post of Deputy Director. Once the applicant is yet to become Director, he cannot be considered for promotion to the post of Dy. Director General. Therefore, no exception can be taken to the view expressed by the respondents. At the same time, the applicant deserves to be considered for

promotion to the post of Director, on completion of 5 years of service in the post of Deputy Director, subject to his fulfilling the stipulated conditions.

10. We, therefore, dispose of the O.A., directing the respondents to consider the case of the applicant for promotion to the post of Director, by treating him as otherwise eligible, on completion of five years of service in the post of Deputy Director on 22.09.2014. The exercise shall preferably be completed within three months from the date of receipt of this order. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

/pv/