

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

O.A. No. 3347/2018

This the 9th day of July, 2021

(Through Video Conferencing)

**Hon'ble Mr. A. K. Bishnoi, Member (A)
Hon'ble Mr. R.N. Singh, Member (J)**

1. Bhupender Kumar. Aged 31 years, Group-C
S/o Shri Rajendra Kumar,
Working as Stenographer in AIIMS, New Delhi
R/o 11/5, Pely Quarter, Lohia Nagar,
Ghaziabad-201001.
2. Smt. Shashi Prabha, Aged-42 years, Group-C
W/o Shri Amit Kumar,
Working as Stenographer in AIIMS, New Delhi
R/o Flat No. 402, 189A/2, Savitri Nagar,
Malviya Nagar, New Delhi-110017

.. Applicants

(through Advocate Shri Yogesh Sharma)

Versus

1. All India Institute of Medical Science,
Through its Director,
Ansari Nagar, New Delhi-29
2. Assistant Controller (Exams)
Examination Section,
All India Institute of Medical Science,
Ansari Nagar, New Delhi-29.
3. The Administrative Officer,
Recruitment Cell
All India Institute of Medical Science,
Ansari Nagar, New Delhi-29.
4. Mritunjaya Parida
Personal Assistant, Academic Session
All India Institute of Medical Science,
Ansari Nagar, New Delhi-29.
4. Mrs. Shakuntla
Personal Assistant,



Vigilance Cell,
All India Institute of Medical Science,
Ansari Nagar, New Delhi-29.



(through Advocate Shri K.P. Gautam)

-Respondents

ORDER (Oral)

Hon'ble Mr. R. N. Singh, Member (J):

In the present OA filed under section 19 of the Administrative Tribunals Act, 1985, the applicants have challenged the order dated 07.08.2018 vide which the respondents No. 4& 5 have been promoted to the post of Personal Assistant under LDCE quota allegedly in spite of the fact that their names were not included in the select list and they have got lesser marks than the applicants.

2. Mr. Yogesh Sharma, learned counsel for the applicants argues that it is settled by the Hon'ble Supreme Court in number of cases that in the matter of selection on merit, if a reserved category candidate is selected on his/her own merit, he/she shall be adjusted against the unreserved vacancies and in the present case in the merit the name of the applicant No.1 was within the nine unreserved post but the respondents have deprived the applicant from appointment. He further argues that OA No.571/2019 wherein an identical issue was raised, this Tribunal has allowed the said OA vide order/judgment dated 15.12.2020 and accordingly the present OA deserves to be

allowed in the same terms as in the order/judgment dated 15.12.2020 in OA No.571/2019.



3. Pursuant to the notice from this Tribunal, respondents have filed reply. However, Mr. K.P. Gautam, learned counsel for respondents very fairly submits that the claim of the applicants is squarely covered by the order/judgment dated 15.12.2020 of this Tribunal passed in the aforesaid OA No.571/2019. The operative portion of the order dated 15.12.2020 in the aforesaid OA reads as under:-

“17.....Therefore, while an unreserved category candidate can be promoted against an unreserved vacancy only, a reserved category candidate can be promoted to a reserved vacancy as per reservation as well as he/she can be considered for promotion against an unreserved vacancy if he/she happens to be the next candidate in line for promotion on merit.

18. In view of the foregoing, there is merit in the OA and it needs to be allowed. Accordingly, OA is allowed.

19. The respondents are directed to consider the applicant for the vacant post of Hindi Officer by constituting a review DPC. In case she is found fit for promotion, she shall be granted promotion from the same date her juniors were promoted, and she shall also be granted pay fixation at par with her juniors, who were promoted vide orders dated 29.01.2019. The due arrears shall also be paid.

This entire exercise shall be completed by the respondents within a period of 08 weeks from the date of receipt of a certified copy of this order. No costs.

Pending MA also stands disposed of.”

4. In view of the aforesaid admitted facts, the present OA is also disposed of in terms of the order/judgment dated 15.12.2020 in OA No.571/2019.

5. The OA stands disposed of accordingly. No order as to costs.



(R.N. Singh)
Member (J)

/cc/daya/

(A. K. Bishnoi)
Member (A)