

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

M.P.No.636/2008

In

Diary No. 606/2008

OA.150/08

This the 30th day of April 2008

HON'BLE MR. M. KANTHAIAH, MEMBER (J)
HON'BLE MR. SHALENDRA PANDEY, MEMBER (A)

1. C.S. Kandpal, aged about 47 years S/o Late G.D. Kandpal
R/o D-1/145 Sector-F, Jankipuram, Lucknow.
2. O.P. Singh aged about 51 years S/o Late P.R. Singh R/o C-
2 CIMAP Colony, Sector-7, Vikasnagar
3. Nisha Sharma aged about 49 years W/o Sri R./K. Sharma
R/o 25/52, Indiranagar, Lucknow.
4. K.C. Lohani aged about 2, years S/o Late N.B. Lohani, R/o
B-62, Shivani Vihar, Kalyanpur.

...Applicant.

By Advocate: Shri A. Moin.

Versus.

1. Council of Scientific & Industrial Research, Aunsandhan
Bhawan, Rafi Marg, New Delhi through Director General.
2. Central Institute of Medicinal and Aromatic Plant, Kukrail
Picnic Spot Road, Lucknow through its Director
3. National Botanical Research Institute, Rana Pratap Marg,
Lucknow through its Director.

... Respondents.

By Advocate: Shri A.K. Chaturvedi.

ORDER**BY MR. M. KANTHAIAH, MEMBER JUDICIAL.**

The applicants No.1 to 4 have filed this OA jointly, to issue direction to the Respondent No.1 to strictly follow the provisions of Administrative Services (Recruitment & Promotion) Rules 1982 as far



as provision at Sl.No.11 of Note under para VI Misc of the CSIR (ASRP) Rules, 1982, for fixation of seniority of the applicants with all consequential benefits. The applicants also sought interim relief asking the Respondent No.1 to take final decision in the matter as communicated by means of order dated 30.11.2006 (Annex-9).

2. The respondent have not filed any objections/Counter Affidavit but opposed the claim of the applicants stating that the OA is not at all maintainable and there is no cause of action for seeking such relief and thus resisted for admission of the matter and also for grant of any interim relief.

3. Heard both sides.

4. It is the case of the applicants No. 1 to 4 that they were appointed as Assistant (General) Grade-I, on various dates and in the year 2003, the respondents have invited options from the staff of the administrative cadre either to general category or to Finance and Accounts Wings or to Stores & Purchase Wing but the applicants did not opted for any cadre. Subsequently, in the year 2004 covered under Annex-3 Dt. 24.09.2004, they again invited options to opt either for continuation the administrative cadre or to Finance and Accounts Wings or to Stores & Purchase and in the said option, it was also stipulated that previous services shall be counted for approved services for the Accounts and Purchase and accordingly, applicants have submitted their options, which was also accepted by the respondents covered under Annex-5 orders Dt. 04.11.2004 and 21.05.2005. Subsequently, the seniority list of Assistant (Finance and Accounts) have been issued, in which applicants were placed at Serial No. 104, 107, 108 and 138 respectively, without taking into

consideration of their previous services. Annex-6 Dt. 24.04.2006 is the copy of the relevant seniority list. Against the same, the applicants have made a representation covered under Annex-8 Dt. 22.05.2006, Upon which, the respondents have informed vide order Dt. 30.11.2006 Annex-A-9 that the matter is under consideration. But without dismissing the claim of the applicants the respondent authorities have issued a tentative seniority list covered under Annex-10 Dt. 10.10.2007 indicating the same position of the applicants covered under earlier seniority list. Immediately, they also made another representation covered under Annex-A-1 Dt. 12.10.2007 and when there was no response they have filed this OA.

5. It is the main argument of the learned counsel for the respondents that the authorities have not finalized the seniority list covered under Annex-A-9 Dt. 30.11.2006 and they have issued only tentative seniority list Dt. 10.10.2007 and further, it is not the case of the applicants that the authorities are giving any promotions by finalizing the seniority list, without considering the pending request of the applicants and as such the OA is pre-mature.

6. Admittedly, it is not the case of the applicants that the respondent authorities have finalized the seniority list of Assistants (Finance & Accounts) ignoring their claims in respect of consideration of their previous service and it is also not their case that any promotions are being given to such selected candidates for creating any cause of action for filing this OA. Further, it is also informed by the respondent authorities that the request of the applicants is under consideration and subsequently, covered under Annex-10 Dt. 10.10.2007, the seniority list prepared by the respondents is only a

tentative seniority list and in such circumstances there is no cause of action for the applicants for filing this OA to issue directions to the respondents to strictly follow the provisions of Administrative Services (Recruitment & Promotion) Rules 1982 as far as provision at Sl.No.11 of Note under para VI Misc of the CSIR (ASRP) Rules, 1982 in respect of fixation of seniority of the applicants and also consequential reliefs if any.

7. In view of the above circumstances, there is no cause of action for the applicants for filing the present OA for issuance of any directions as claimed by them and as such OA is pre-mature. Hence, OA is rejected at admission stage itself. No costs.


(SHALENDRA PANDEY)
MEMBER (A)


(M. KANTHAIAH)
MEMBER (J)

30.04.2008

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