

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.1202/99

DATE OF ORDER : 9-11-1999.

Between :-

R.Lakshmana Babu

...Applicant

And

1. Divisional Railway Manager,  
SC Rlys, Vijayawada Division,  
Vijayawada.
2. Chief Personnel Manager,  
O/o of the General Manager,  
SC Rlys, Head Quarters, Sec'bad.
3. chief Medical Superintendent,  
Vijayawada Railway Hospital,  
SC Rlys, Vijayawada.

...Respondents

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Counsel for the Applicant : Shri M.V.K.Moorthy

Counsel for the Respondents : Shri N.R.Devaraj, SC for Rlys

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CORAM:

THE HON'BLE JUSTICE SHRI D.H.NASIR : VICE-CHAIRMAN

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (A)

(Order per Hon'ble Shri R.Rangarajan, Member (A) ).

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(Order per Hon'ble Shri R.Rangarajan, Member (A) ).

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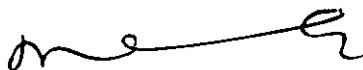
Heard Sri N.R.Devaraj, learned Standing Counsel for the Respondents.  
None for the applicant.

2. The applicant in this OA was an aspirant to the post of Chief Pharmacist and was not selected as per the order No.P(MD)/535/Pharm/IX dated 5-4-1999 (Page-13 Annexure-5 to the OA).
3. This OA is filed to set aside the impugned order dated 5.4.1999 issued by Respondent No.2 excluding the applicant from the select list for promotion as Chief Pharmacist and consequently direct him to consider and promote the applicant as Chief Pharmacist along with other 12 eligible and qualified Pharmacist of Gr.I after calling for the entire records pertaining to the impugned proceedings.
4. The main issues for consideration in this OA are (i) whether the confidential reports are initiated and accepted by the proper authority;(ii) if there is any adverse remarks, whether any opportunity; was given to the applicant to protest against that before it is being accepted by the accepting authority.
5. The learned counsel for the Respondents submits that the Confidential Reports are reported by the Medical Superintendent under whom the applicant is working and reviewed by the Senior Medical Superintendent and was finalized by the Divisional Railway Manager. Sri Devaraj further adds that the adverse remarks were communicated to the applicant and hence he submits that the applicant was given sufficient opportunity to protest against the remarks in the confidential reports.
6. The next point for consideration is whether the post of Chief Pharmacist is a selection post or a non-selection post. The Respondents counsel submits that it is a non-selection post relying on Annexure to the letter No.P(PC)487/V/IMP/97/Vol.II (A) dated 26-5-1998 which was handed over at the time of hearing. Normally a non-selection post is filled by the Appointing

Authority on the basis of the confidential reports and the service records placed before him by the Personal Organization. When we examined the assessment of the suitability, we find that three officers have signed that suitability proceedings. It is not understood why three officers have assessed the suitability proceedings. Learned Standing Counsel for the Respondents can only say that assistance of other officers was taken. A suitability test cannot be beyond the rule position. As the rule is not available before us as the respondents have not placed before the Court regarding the Committee to be constituted, we are left with no other alternate except to direct the Chief Personnel Officer to call for the rule position and instructions in regard to the constitution of the committee and consider the same. <sup>AMW</sup> ~~A~~ final decision is taken by the Chief Personnel Officer, a suitable reply should be given to the applicant.

7. Time for compliance is three months from the date of receipt of a copy of this order.

8. O.A. Ordered accordingly. No costs.



(R. RANGARAJAN)

MEMBER (A)

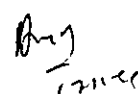


(D.H. NASIR)

VICE-CHAIRMAN

DATED: 9<sup>th</sup> November, 1999.

Dictated in Open Court.



Avl/

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD J.

1ST AND 2ND COURT

COPY TO :-

1. DBHND
2. HRAN M (A)
3. DBSJP M (J)
4. D.R. (A)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY  
COMPARED BY

CHECKED BY  
APPROVED BY

THE HON'BLE MR. JUSTICE D.H. NASIR

VICE - CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN :  
MEMBER (ADMN.)

THE HON'BLE MR. S.S. JAI PARAMESWAR :  
MEMBER (JUDL.)

\* \* \*

DATE OF ORDER: 9/11/99

MA/BA/CP. No.

DA. NO. 1202/99

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

CP CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS

