

Central Administrative Tribunal  
Jaipur Bench, JAIPUR

ORDERS OF THE BENCH

23rd July, 2009

TA. 17/2009  
CWP 5174/96

Present: Shri Virendra Lodha, counsel for applicant  
Shri Anurag Agarwal proxy for Sh. M.D.Agarwal, counsel for  
respondents

Heard counsel for the parties.

For the reasons to be dictated separately the OA stands disposed  
of.

  
(B.L. Khatri)  
Member (Administrative)

  
(M.L. Chauhan)  
Member (Judicial)

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Central Administrative Tribunal  
Jaipur Bench, JAIPUR

TA. 17/2009

This the 23rd day of July, 2009

**Hon'ble Shri M.L. Chauhan, Member (Judicial)**  
**Hon'ble Shri B.L. Khatri, Member (Administrative)**

Bal Krishan Sharm  
S/o Shri Babulal Sharma,  
Aged about 39 years  
R/o 16 Sudama Marg, Bramhpuri Road,  
Jaipur, .....Applicant

(By Advocate:Shri Virendra Lodha)

***V e r s u s -***

1. Union of India through the Secretary,  
Indian System of Medicine, Red Cross Bhawan,  
Red Cross Road, New Delhi.
2. National Institutue of Ayurved through its  
Director, Mahadev Vilash Palace, Amber Road,  
Jaipur. .... Respondents

(By Advocate: Shri Anurag Agarwal proxy for Sh. M.D.Agarwal)

**O R D E R (ORAL)**

Heard counsel for the parties.

2. In this case grievance of the applicant is regarding amendment carried out in the rule for the post of Store Officer in the year 1996 whereby certain other feeder categories have been included for the purpose of promotion to the aforesaid post. As per old rules, the promotion to the post of Store Officer was to be made from the Store Keepers only.

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3. We have heard counsel for the parties at length. Learned counsel of the applicants submits that he was eligible for promotion even as per unamended rules 1982, as the vacancy of the Store Officer has fallen vacant even prior to amendment rules 1996. As such he has right of consideration which is fundamental right and that could not be deferred till the amendment was carried out in the year 1996.

4. We have heard counsel for parties and perused the pleadings as well. This averment has not been made by the applicant in this case in the manner in which contention has been raised viz for the post of Store Officer was vacant prior to the coming inforce the Rules of 1996 from 28<sup>th</sup> September, 1996 and his case for promotion to the post of Store Officer was required to <sup>be</sup> consider <sup>ed</sup> in the light of 1982 Rules.

5. At this stage learned counsel for the applicant seeking instructions from his client, submits that he wants to withdraw this TA with liberty reserve to him to file substantive OA whereby raising all permissible points.

6. In view of what has been stated above, prayer is allowed to withdraw the present TA and to file substantive OA thereby raising permissible grounds including contentions as noticed above.

With these observations, the TA stands disposed of at the admission stage.

  
**( B.L. Khatri)**  
**Member (Administrative)**

  
**(M.L. Chauhan)**  
**Member (Judicial)**

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