

**Central Administrative Tribunal
Principal Bench**

OA-1522/2016

MA-1504/2016

With

OA-1147/2016

And

OA-4417/2015

New Delhi, this the 12th day of January, 2018

Hon'ble Mr. Justice Permod Kohli, Chairman

Hon'ble Ms. Praveen Mahajan, Member (A)

OA No. 1522/2016

Shri. Balraj Sharma (Aged about 57 years),

Section officer, S/o late Shri Braham Dutt,

Resident of H.No. 368,

Village Katewara, Delhi-110039.

...

Applicant

(through Sh. Prem Chand with Sh. Mohan Shyam Arya)

Versus

1. Director General,
Indian Council of Medical Research,
Ansari Nagar, New Delhi-110029.
2. Director, National Institute of
Medical Statistics (ICMR),
Ansari Nagar, New Delhi-110029.
3. Union of India through
Secretary, Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi-110011. ... Respondents

(through Dr. Shamshuddin Khan for R. No. 1 and Sh. R.N. Singh
and Sh. Amit Sinha for R. ICMR)

OA No.1147/2016

Sh. B.M. Malhotra, Asstt.
 (Aged about 54 years),
 S/o Late Sh. G.L. Malhotra,
 R/o A-2538 FF,
 Green Fields Colony Faridabad.

2. Sh. Brahampal Singh, Asstt.
 (Aged about 55 years),
 S/o Late Sh. Arjun Singh,
 R/o H.No. 77, Gali No. 2, Nand Nagri
 Bhupenderpuri, Modi Nagar, 201204. (UP) ... Applicants

(through Sh. Prem Chand with Sh. Mohan Shyam Arya)

Versus

1. Director General,
 Indian Council of Medical Research,
 Ansari Nagar, New Delhi-110029.
2. The Director, National Institute of
 Medical Statistics (ICMR),
 Ansari Nagar, New Delhi-110029.
3. The Secretary,
 Ministry of Health & Family Welfare,
 Nirman Bhawan, New Delhi-110011. ... Respondents

(through Dr. Shamshuddin Khan for R. No. 1 and Sh. R.N. Singh
 and Sh. Amit Sinha for R. ICMR)

OA No. 4417/2015

Smt. Raj Kala (Aged about 53 years),
 Wife of Shri Satya Vir Singh,
 Resident of I-228, Sarojini Nagar,
 New Delhi. ... Applicant

(through Sh. Prem Chand with Sh. Mohan Shyam Arya)

Versus

1. Director General,
Indian Council of Medical Research,
Ansari Nagar, New Delhi-110029.
2. The Director, National Institute of
Medical Statistics (ICMR),
Ansari Nagar, New Delhi-110029.
3. Union of India through
Secretary, Ministry of Health & Family Welfare,
Nirman Bhawan, New Delhi-110011. ... Respondents

(through Dr. Shamshuddin Khan for R. No. 1 and Sh. R.N. Singh
and Sh. Amit Sinha for R. ICMR)

ORDER(ORAL)

Hon'ble Mr. Justice Permod Kohli

The issues in all these three OAs being common/identical, the same are being disposed of by this common order.

2. The applicants were serving Assistants. They were promoted as Section Officer on regular basis on the recommendations of DPC w.e.f. 24.12.2010. It is stated that these promotions were based upon seniority-cum-fitness basis. They were kept on probation for two years. Subsequently, vide impugned order dated 28.11.2011/01.12.2011, regular promotion was converted into adhoc promotion. The relevant extract of the order reads as under:

"Sub: Promotion of Staff NIMS

OFFICE MEMORANDUM

Reference to ICMR letter No. 69/2/2009-ECD-II dt. 9.8.2011. It has been decided by the Council that "both the incumbent promoted as Section Officer may be made on adhoc basis and not on regular till recruitment rule is finalized."

Accordingly, the Director NIMS has decided that the following staff promoted to the post shown against each has been treated as on Adhoc basis from the date of their promotion i.e. from 24.12.2010 till further orders in this regard."

The applicants thereafter made some representations. The said representation is dated 10.03.2015 seeking regular promotion. This representation was however rejected vide order dated 26.06.2015, annexure R-11 with the counter affidavit.

3. This application was filed by the applicants on 25.04.2016. It seems that on objection being raised regarding limitation, the applicant filed application for condonation for delay being MA No. 1504/16 in OA No.1522/2016 and MA No.1149/2016 in OA No.1147/2016 seeking condonation of delay. We have heard condonation of delay applications as well as OAs.

4. It is admitted case of the parties that earlier the applicants were recommended and promoted on regular basis to the post of Section Officers. Their regular promotion was however converted into adhoc promotion in terms of the order dated 29.11.2011/01.12.2011 which contains clear stipulation that the regular promotion is being converted into adhoc promotion till recruitment rules are finalised. Therefore, neither eligibility of the applicants was in question nor they suffered any infirmity so far their right to be considered for promotion is concerned. The mere fact that they were considered fit by the DPC itself is sufficient to indicate that about their eligibility. The case of the applicants is that since for a considerable period Recruitment Rules were not framed, the

applicants, after making representations, approached this Tribunal by filing these OAs. It has been brought to our notice that now the Recruitment Rules have been framed, namely, the ICMR Administrative Cadre (Group A, B & C), Recruitment Rules, 2017 as notified vide notification dated 31.01.2017. A copy of the Recruitment Rules has been placed on record during the course of arguments by the applicants' counsel.

5. Since the regular promotion of the applicants was converted to adhoc promotion only till the Recruitment Rules are framed, the Recruitment Rules having been finalised and notified, their claims for regular promotion are required to be considered by the respondents in accordance with law. The applicants are seeking regular promotion retrospectively from the date they were granted regular promotion vide order dated 24.12.2010. The respondents will examine the claim of the applicants in accordance with law and the rules so framed. Let the entire process of consideration be completed within a period of three months from the date of receipt of certified copy of this order and consequential orders passed.

(Praveen Mahajan)
Member (A)

(Justice Permod Kohli)
Chairman

/ns/

