

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.2106/2014

Friday, this the 20th day of November 2015

**Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Mr. P.K. Basu, Member (A)**

Hakim Mahboob us Salam
So Mr. Mohd. Qasim,
Age 44 years
Research Officer (Unani) (LRIUM)
Central Council for Research in Unani Medicine
Department of AYUSH
Ministry of Health & Family Welfare
61-65 Institutional Area
Janakpuri, New Delhi-58

..Applicant

(Mrs. Harvinder Oberoi, Advocate)

Versus

1. Union of India through its Secretary
Ministry of Health & Family Welfare
Department of AYUSH
Govt. of India
Ayush Bhawan, B Block, G Complex
INA, New Delhi
2. The Central Council for Research in Unani Medicine
Through its Director General
Jawaharlal Nehru AYUSH Anushandhan Bhawan
61-65 Institutional Area
Janakpuri, New Delhi-58

..Respondents

(Dr. Ch. Shamshuddin Khan, Advocate for respondent No.1 and
Mr. S Sunil, Advocate for respondent No.2)

O R D E R (ORAL)

Mr. A.K. Bhardwaj:

In terms of the Advertisement No.2/2006, Central Council for Research in Unani Medicine, Ministry of Health & Family Welfare (Department of AYUSH) invited applications on plain paper for the posts of

Research Officer (Unani) and Investigator. The applicant applied for the posts and participated in the written examination (Objective Type). Being successful in the selection, he was included in the select panel at Sl. No.5. Nevertheless, instead of giving regular appointment, the respondents appointed him purely on *ad hoc* basis w.e.f. 15.03.2007. Subsequently, the respondents invited applications for the post of Research Officer in Unani Medicine from reserved category candidates and made appointments from time to time. Vide office order dated 07.12.2011 (Annexure A-4), they offered appointment to Hakim Rashidul Islam Ansari as Research Officer (Unani) on *ad hoc* basis who was recommended for appointment by the same Selection Committee, which recommended the candidature of the applicant. It is not in dispute that the name of Hakim Rashidul Islam Ansari was included at Sl. No.6 of the panel while the applicant was at Sl. No.5.

2. When the respondents initiated process to make regular appointment to the post in question, the applicant filed the present Original Application praying therein:

“(vii) The respondent may be directed to regularise the applicant retrospectively from the date of his appointment.

(viii) The respondents may be directed to grant suitable relaxation in regularizing him from the date of his initial appointment.

(ix) The respondents may be directed not to appoint any further candidates to the post of Research Officer (Unani) as it will increase the total sanctioned strength of cadre i.e. 145.

(x) The respondents may be directed to extend the benefits of the in-situ promotion scheme as applicant was appointed on recommendations of a regular selection committee.

(xi) All consequential benefits may be granted to the applicant.

(xii) Any other relief, which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case, may also be passed in favour of the Applicant.

(xiii) Cost of the proceedings be awarded in favour of the Applicant and against the Respondents.”

3. According to the learned counsel for applicant, once there was no mention in the Advertisement that the applications were invited for appointment on *ad hoc* basis, respondents are not justified in not giving the regular appointment to the applicant and continuing him on *ad hoc* basis for a long period of almost nine years. She further submitted that after the selection and appointment of the applicant on *ad hoc* basis the respondents kept on making appointment to the post by giving hundred percent reservation to the candidates from reserved categories.

4. On the other hand, Mr. S. Sunil, learned counsel for respondent No.2 espoused that when there was only one UR vacancy of Research Officer (Unani), by mistake the Selection Committee recommended nine candidates for their appointment while the remaining eight vacancies were reserved for SC/ST.

5. We heard the learned counsel for the parties and perused the record.

6. It is not in dispute that when in the year 2011 when an OBC vacancy became available, the respondents appointed Hakim Rashidul Islam Ansari, who was recommended for his appointment as Research Officer (Unani) by the same Selection Committee, which recommended the applicant also for his appointment to the post in question. It is also not in dispute that by 01.12.2015 the respondents will have five clear vacancies of

Research Officer (Unani) in UR category on retirement of following incumbents, as provided by learned counsel for applicant:

| Sr. No. | Name | Date of birth | Date of vacancy |
|---------|------------------------------|---------------|-----------------|
| 1. | Dr. Parvez Ahmad Siddiqi | -- | 01.07.2015 |
| 2. | Hakim Sagheer Ahmad Siddiqui | 01.07.1955 | 01.07.2015 |
| 3. | Hakim A.B. Alvi | 05.08.1955 | 01.09.2015 |
| 4. | Hakim Sadaqatullah Sadiq | 01.10.1955 | 01.10.2015 |
| 5. | Hakim Wahheduzaman | 15.11.1955 | 01.12.2015 |

7. Mr. S. Sunil, learned counsel for respondent No.2 submitted that the said respondent had given appointment to one Hakim Rashidul Islam Ansari, Research Officer (Unani) in accordance with rules and would have no difficulty in appointing even the UR category candidate, recommended by the Selection Committee met on 22.07.2006, by following the same procedure.

8. Once indubitably the name of the applicant is at Sl. No.5 of the select panel and by 01.12.2015 the respondents will have five clear vacancies in UR category, the respondents should offer appointment to the applicant to the post of Research Officer (Unani) on regular basis within a period of four weeks from the date of receipt of a copy of this Order. The applicant would be entitled to all consequential benefits.

9. Original Application stands disposed of. No costs.

(P.K. Basu)
Member (A)

November 20, 2015
/sunil/

(A.K. Bhardwaj)
Member (J)