

**Central Administrative Tribunal
Principal Bench, New Delhi.**

OA-4213/2016

Reserved on : 04.01.2017.

Pronounced on : 06.01.2017.

Hon'ble Mr. Shekhar Agarwal, Member (A)

Hon'ble Mr. Raj Vir Sharma, Member (J)

Dr. Tejinder Kaur

Vs.

UOI & Anr.

Present : Applicant in person.

**Sh. Hanu Bhaskar and Sh. H.D. Sharma, counsel for
respondents.**

ORDER ON INTERIM RELIEF

Mr. Shekhar Agarwal, Member (A)

Heard the parties on interim relief. The following interim relief has been prayed for by the applicant:-

"The Hon'ble Tribunal may graciously be pleased to pass ex-parte orders staying the process of processing applications received, selection and appointment to the post of Director, NIPCCD through 'Transfer on Deputation (including Short Term Contract)', in terms vacancy circular dated 28.9.2016 **(Annexures 1 & 2).**"

2. Applicant has appeared in person and argued that although the Recruitment Rules for the post of Director of the Institute provide for filling up the post first by direct recruitment then by promotion and then only by transfer on deputation, the respondents have issued the impugned advertisement for filling up the posts on deputation basis without first considering the other two options. In

this regard, she has relied on the judgment of Hon'ble High Court of Delhi in CWP No. 5413/2003 (Dr. (Mrs.) Adarsh Sharma Vs. UOI & Ors. dated 24.03.2004. She has also relied on DoP&T O.M. No. 4/78/2006-P&PW(D) dated 31.10.2007 as well as O.M. No. 4/78/2006-P&PW(D) dated 12.10.2015. She also submitted that the Recruitment Rules for the post of Director were out dated as they were framed in the year 1988 and have not been revised since then.

3. In reply, learned counsel for the respondents Sh. Hanu Bhaskar and Sh. H.D. Sharma submitted that the applicant has no locus in the case as she was not eligible for promotion to the post of Director. This is because she is working as Joint Director and is not even eligible to be promoted as Additional Director having not completed the residency period as Joint Director. Learned counsel submitted that the feeder post for promotion to the post of Director was Additional Director. They also submitted that the applicant has not approached this Tribunal with clean hands inasmuch as she has not revealed in her O.A. that a Writ Petition challenging the order of this Tribunal passed in TA-319/2009 dated 09.01.2014 is pending consideration before Hon'ble High Court of Delhi.

4. We have heard both sides and have perused the Recruitment Rules (page-88 of the paper-book). The Recruitment Rules provide for filling up the post by following methods:-

“(i) By Direct Recruitment.

- (ii) By Promotion or
- (iii) By transfer on deputation/transfer.
- (iv) On Short-term contract not exceeding three years with the approval of Executive Council."

4.1 It is evident that direct recruitment has been provided for as first method for filling up the post of Director in the Institute. Learned counsel for the respondents were not able to give a satisfactory answer to our query as to why direct recruitment has not been considered by the respondents. Prima facie, it would, therefore, appear that the respondents are not acting in accordance with the Recruitment Rules.

4.2 Even then, we do not feel it necessary to stay the entire selection process as prayed for by the applicant as her eligibility for the post of Director is yet to be established. In our opinion, making any appointment to the post of Director subject to the outcome of this O.A., would suffice in this case and would balance the interest of both sides. We, therefore, order accordingly. We make it clear that we have not expressed any opinion on the merits of this case.

5. The respondents may file their reply within two weeks. Rejoinder may be filed within two weeks thereafter. List again on 13.02.2017.

(Raj Vir Sharma)
Member (J)

(Shekhar Agarwal)
Member (A)

/Vinita/

