

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.4236/2015

Reserved on : 29.10.2018
Pronounced on : 02.11.2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

Mrs. Girija L. V.,
Laboratory Technician,
National Institute of Biologicals,
Plot No.A-32, Sector 62,
Institutional Area, Noida,
Uttar Pradesh-301307. ... Applicant

(By Mr. Anil Nauriya ad Ms. Sumita Hazarika, Advocates)

Versus

1. Union of India through Secretary,
Ministry of Health and Family Welfare,
Government of India, Nirman Bhawan,
New Delhi-110001.

2. National Institute of Biologicals,
Plot No.A-32, Sector 62,
Institutional Area, Noida,
Uttar Pradesh-301307. ... Respondents

(By Mr. Ajay Pal Singh and Mr. R. K. Sharma, Advocates)

O R D E R

Justice L. Narasimha Reddy, Chairman :

The applicant is a Lab Technician in the National Institute of Biologicals. In the year 2015, the recruitment rules were amended, earmarking of 33.13% of vacancies in the post of

Junior Scientist for promotion of Lab Technicians, subject to their holding stipulated qualifications and fulfilling the prescribed conditions.

2. The applicant made representations dated 15.09.2015 and 26.10.2015 with the request to promote her to the post of Junior Scientist. On consideration of the same, the Administrative Officer of the respondent Institute passed an order dated 30.10.2015, informing the applicant that her case had been considered by the DPC for promotion to the post of Junior Scientist, but it did not recommend her name. It was also mentioned that her contention that she is suffering stagnation is not correct, since she is yet to reach the stagnation level in Pay Band-II with Grade Pay of Rs.4200/-. It is stated that she had been extended the financial upgradation under the MACP. Accordingly, her representation was rejected. This OA is filed challenging the said order.

3. The applicant contends that though she was eligible to be promoted to the post of Junior Scientist, she was not extended the benefit.

4. The respondents filed a counter affidavit opposing the OA. It is stated that the applicant has no right to be

promoted, and at the most, she has a right to be considered. It is also stated that the case of the applicant was considered by the DPC which met on 15.05.2015, but on account of various factors, the DPC did not recommend her case for promotion.

5. We heard Shri Anil Nauriya and Ms. Sumita Hazarika, learned counsel for the applicant, and Shri Ajay Pal Singh and Shri R. K. Sharma, learned counsel for the respondents.

6. The impugned order is the one, passed in reply to the representation submitted by the applicant. Till the year 2015, there was no avenue of promotion for the post of Lab Technician. However, other benefits such as MACP, were provided. In the amended recruitment rules, provision for promotion for Lab Technician is provided to the post of Junior Scientist to the extent of 33.13%. The qualifications prescribed for the post are M.Sc in Microbiology/Clinical Microbiology/Biotechnology/Bioinformatics/Biochemistry/Bacteriology/Physiology/Pharmacology/Serology/Molecular Biology, from any recognized University with at least 60% marks.

7. Admittedly, the applicant does not hold the prescribed qualification. She secured less than 60% marks in the PG Degree held by her. Obviously for that reason, she made a representation with a request to relax the qualifications for her. An attempt is also made by the applicant to contend that before the rules were amended in 2015, there was no insistence on 60% marks in the PG Degree, stipulated as a qualification for the post of Junior Scientist. When she intends to reap the benefits of the amended rules, she cannot ignore them in the context of the percentage of marks.

8. It is urged on behalf of the applicant that the respondents are under an obligation to provide adequate avenues for promotion, and reliance is placed upon the judgment of the Hon'ble Supreme Court in *Food Corporation of India and others v Parshotam Das Bansal and others* [(2008) 5 SCC 100]. Reference was made in that case to the judgment of the Supreme Court in *O. Z. Hussain (Dr.) v Union of India* [1990 Supp SCC 688].

9. The very fact that the respondents have amended the recruitment rules providing for promotion to the post of Junior Scientist from the category of Lab Technicians, discloses

that they made efforts to provide promotional avenues. If the applicant did not fulfill the qualifications for the post, nobody can help the situation. No employer can ensure promotion to every employee. It is not even alleged that any Lab Technician junior to the applicant, or anybody who did not fulfill the stipulated the qualifications, was promoted to the post of Junior Scientist.

10. We do not find any merit in the OA. The same is accordingly dismissed. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/