

**Central Administrative Tribunal  
Principal Bench  
New Delhi**

**OA No.1421/2013  
MA No.1088/2013**

This the 23<sup>rd</sup> day of October, 2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Mr. Pradeep Kumar, Member (A)**

1. Dr. M. D. Arya S/o late Hori Singh,  
R/o House No.455, Sector 14,  
Vasundhara, Ghaziabad (UP).
2. Dr. D. D. Arya S/o late Hori Singh,  
R/o 822 Sector-11, Vasundhara,  
Ghaziabad (UP).
3. Dr. Sujendra Kumar Sharma S/o Satya Narayan Sharma,  
R/o 315, Keshav Nagar, Sitapur Road,  
Lucknow (UP).
4. Dr. Nayan Ranjan Mandal S/o Abani Kanta Mandal,  
R/o Mangalik Co operative Housing Society,  
F.No. B/4/9, Baghajitan, PO Panchasayar,  
Kolkata-94.
5. Dr. J. L. Rai S/o late Pradip Rai,  
R/o C/o Dinesh Prasad Singh,  
Arsunday, Boreya Road,  
P.O. Boreya, Ranchi.
6. Dr. Dubashi Ramesh S/o late D. Shivaiah,  
R/o D.No.32-94, Ambedkar Nagar  
(Opp. Indira Nagar), Kanjiguda  
Military Dairy Farm Road,  
Secunderabad. ... Applicants

( By Mr. Ajesh Luthra, Advocate )

Versus

1. Union of India through Secretary,  
Department of AYUSH,  
Ministry of Health and Family Welfare,  
AYUSH Bhawan, B-Block, GPO Complex,  
Near INA Market, New Delhi-110023.
2. Director General,  
Central Council for Research in Homoeopathy,  
61-65, Institutional Area,  
Opp. D-Block, Janakpuri,  
New Delhi-110058. ... Respondents

(By Mr. J. P. Tiwari, Advocate )

## O R D E R

### **Justice L. Narasimha Reddy, Chairman :**

The applicants herein are working as Research Officers (Homoeopathy) in the grade of Scientist-3 in the Central Council for Research Institute in Homoeopathy (for short, CCRIH).

2. The facility of *in situ* promotion from one grade to another, that was introduced in certain Central Government Research Institutions, was extended to the Research Officers working in the CCRIH also. The evaluation for this purpose is done by a Departmental Assessment Board (DAB) in terms of the office memorandum dated 03.09.2008 issued by the Department of AYUSH. The cases of the applicants were considered for promotion from Scientist-3 to Scientist-4 level. However, they were not found fit, and were accordingly denied

promotion. This OA is filed with a prayer to direct the respondents to grant *in situ* promotion from Scientist-3 to Scientist-4 grade in accordance with the scheme. They have also prayed for setting aside the office orders dated 21.01.2013 and 31.05.2012, through which certain other officers were promoted.

3. The applicants contend that according to the scheme, contained in the office memorandum dated 03.09.2008, the evaluation is to be on the basis of the ACRs and the research work, whereas at a subsequent stage, the consideration of the publication of research papers was introduced. They contend that the DAB has adopted a totally defective procedure, and that in turn, has resulted in denial of promotion to them.

4. The respondents filed a counter-affidavit opposing the OA. It is stated that the DAB has taken into account, the relevant provisions of the scheme as framed in the year 2008, and the office memorandum dated 30.04.2010 has just reiterated the scheme with those very parameters, and in the context of the evaluation of the research papers, it was added that if a paper is published in the Peer Reviewed Journal (PRJ), it would be treated as a factor by itself to treat a Scientist as qualified for promotion, subject to other conditions.

5. We heard Shri Ajesh Luthra, learned counsel for the applicants, and Shri J. P. Tiwari, learned counsel for the respondents.

6. The factors that are required to be taken into account for promotion of Scientists of one category to another, are mentioned in para 3 of Annexure-II appended to the office memorandum dated 03.09.2008. They read as under:

“i. The Departmental Assessment Board shall –

- (a) meet twice in a year in the months of January and July;
- (b) take into consideration, the overall performance of a candidate as reflected in his annual confidential reports and on the basis of an evaluation of the research work done in the last 5 years and, if deemed necessary, by interview and may consider in absentia the candidature of such officer(s) who are unable to present themselves for the interview, and shall draw up a list of officers who are assessed as fit for in situ promotion to the next higher grade in accordance with the provisions of the O.M. and recommend to the Central Government accordingly.

A candidate not found fit for promotion after the assessment by the Departmental Assessment Board shall not be eligible for being considered for promotion until a period of one year has elapsed from the date of such assessment.

For in situ promotion to the post of Scientist level 3, the specific qualification requirements shall be determined by the

Central Government keeping in view the job requirements of the post."

According to this, the performance of the candidates as reflected in the confidential reports, and the research work done in the five years preceding the date of consideration, would be taken into account. Provision is also made for interview, if it is warranted. In the office memorandum issued in the year 2010, the only improvement is that in case any research work is published in a PRJ, the evaluation can be done without even the requirement of interviewing the candidate.

Relevant part of para 2(i) of the office memorandum dated 30.04.2010 reads as under:

"(i) ....Further, *in situ* promotion would be available to them in accordance with the scheme as and when they fall due on the basis of the first upgradation. On completion of the requisite eligibility service, the suitability of officer for promotion would be assessed by the Departmental Assessment Board which shall take into consideration the overall performance of the candidate as reflected in his annual confidential reports on the basis of evaluation of the Research work and record of publication in peer reviewed journals, done in the last five years and, if deemed necessary, by interview. The Board may also consider in absentia the candidature of such officer(s) who are unable to present themselves for interview, and shall draw a list of officers who are assessed fit, in accordance with the provisions of O.M. No.R-13016/46/99-HD (Pt.) dated 3.9.08 and 3.3.09 read with the instant scheme for recommendation to the Govt. However, those

joining the organisation after 2006 will be allowed promotion subject to their fulfilling all the conditions stipulated therein."

7. It is in this process, that the DAB, which met for this purpose, has cleared all those who have to their credit, a publication in the PRJ. It is not as if the DAB has rejected the cases of the candidates who did not have such publication to their credit. As regards such candidates, which included the applicants herein, interviews were conducted, and their research work was evaluated. In the process, the applicants were not found fit to be promoted.

8. This very issue was considered by us in OA No.4463/2013 - *Dr. Mumtaz Ahmad & others v Union of India & others*, decided on 16.10.2018, and it was held that the consideration of the publication of research papers in PRJ by the DAB is not at all an alien factor, and it is nothing but an elaboration of the scheme contained in the memorandum dated 03.09.2008.

9. It is fairly well settled that the Court or Tribunal cannot review the assessment made by a selection committee or DPC or DAB, as in this case. The applicants are not able to point out as to which category of research work undertaken by them has not been taken into account by the DAB.

10. The upgradation or promotion of Scientists of a particular category to a higher level is not a matter of course. The promotion is not of ordinary employees. They are already holding posts of Scientists of fairly higher level. One naturally expects the research work of a particular standard from them. If they have not chosen to undertake research or satisfy the DAB as regards their eligibility to be promoted, one cannot help it.

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

( **Pradeep Kumar** )  
Member (A)

( **Justice L. Narasimha Reddy** )  
Chairman

/as/