

OA.No.170/00974/2016/CAT/BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00974/2016

DATED THIS THE 06TH DAY OF FEBRUARY, 2018

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI PRASANNA KUMAR PRADHAN, MEMBER (A)

Sri. M. Prathapa Reddy, 31 years,
S/o Sri. Ramanaiah Maram Reddy,
Occn: Lab Technician (Chemistry),
Office of Regional Ayurveda
Research Institute for Metabolic
Disorders (Formerly known as
The National Ayurveda Dietetics
Research Institute)
GCP Annexe, Opposite Ashoka Pillar,
Jayanagar, Bengaluru – 560 011.

Residing at No: 321, 'Mallish Nursery',
5th Cross, Jayanagar 1st Block,

Bengaluru: 560 011

.....Applicant

(By Advocate Shri P.A. Kulkarni)

Vs.

1. Union of India

Represented by its Secretary,

To Ministry of AYUSH,

‘B’ Block, GPO Complex,

Ayush Bhavan,

Behind INA Market,

New Delhi: 110 023.

2. Director General,

Central Council for Research

in Ayurvedic Sciences (CCRAS),

61-65, Institutional Area,

Opposite ‘D’ Block,

Janakpuri, New Delhi: 110 058.

3. Officer-In-Charge,

Regional Ayurveda Research Institute

for Metabolic Disorders

(Formerly known as the National Ayurveda Dietetics

Research Institute)

G.C.P. Annexe,
Opposite Ashoka Pillar,
Jayanagar, Bengaluru: 560 011.

....Respondents

(By Smt P.K. Praneshwari, Senior Panel Counsel)

O R D E R (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Heard. The matter is in a very small compass. Apparently a vacancy arose on 23.06.2008 and thereafter one more vacancy arose on 31.10.2010. Even though the applicant was selected for promotion vide Annexure-A10 this has the reference to Annexure-A7 also but at that point of time the Government could not promote them because of the ban which was lifted only in the year 2014.

2. The Hon'ble Apex Court in **Union of India and Another vs. Hemraj Singh Chauhan & Others** reported in AIR 2010 SC 1682 has held that the promotion of an employee is almost equivalent to Fundamental Right.

3. Therefore we had queried Smt. P.K. Praneshwari, learned counsel for the respondents, as to whether the amendment made to the Recruitment Rules which provide for 100% direct recruitment had any retrospective effect. She would graciously concede that it had only a prospective effect. Therefore what had transpired will be done and only on the basis of law prevailing at that point of time and not any other as by an amendment a retrospective rule cannot be

canvassed to that rule. If the applicant had been qualified on the previous day then he has to be considered on that basis and not on the basis of new rules. Therefore we direct a DPC to be held and consider the case of the applicant and, if found suitable, grant promotion as he claimed. This must be done within 2 months next. It is further clarified that the benefit of the promotion will be from 2014 when the ban was lifted.

4. The OA is allowed to this extent. No order as to costs.

(PRASANNA KUMAR PRADHAN)

MEMBER (A)

(DR.K.B.SURESH)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/00974/2016

Annexure-A1: Copy of Offer of appointment dated 11.11.2011 issued to the applicant

Annexure-A2: Copy of Office Order No.161/2011-12 dated 16.12.2011

Annexure-A3: Copy of Office order No. 86/2015-16 dated 22.07.2015

Annexure-A4: Copy of Research Assistant (Chemistry) Recruitment Rules

Annexure-A5: Copy of Revised Recruitment Rules of Research Assistant (Chemistry) 2015 notified on 03.12.2015

Annexure-A6: Copy of communication dated 05.12.2014 regarding lifting of freeze order dated 14.11.2006

Annexure-A7: Copy of letter F.No.34-3/99-CCRAS/Estt. dated 05.08.2008

Annexure-A8: Copy of letter F.No.34-3/99-CCRAS/Estt. dated 07.04.2010

Annexure-A9: Copy of representation of the applicant dated 14.12.2015

Annexure-A10: Copy of the letter No. F.2-1/2016/NADRI/Bng./Rct./1161 dated 27.01.2016

Annexure-A11: Copy of the letter F.No.2-18/2016-CCRAS/Rectt/3193 dated 23.03.2016

Annexure-A12: Copy of the letter No.F.2-1/2016/RARIMD/Bng/Rct./642 dated 28.09.2016

Annexure-A13: Copy of citation reported in AIR 1983 SC 852 Y.V. Rangaiah & Others Vs. J. Sreenivasa Rao & Others

Annexure-A14: Copy of extract of Syamysnews Central Administrative Tribunal, Guwahati Bench judgment dated 08.12.2015 in OA No. 321/2013

Annexure-A15: Copy of the Hon'ble High Court of Delhi order dated 28.02.2012 in Writ Petition (C) 5549/2007

Annexures referred in Reply Statement

Nil

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