

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00974/2016

DATED THIS THE 06<sup>TH</sup> 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 Annex, Opposite Ashoka Pillar,  
Jayanagar, Bengaluru – 560 011.

Residing at No: 321, 'Mallish Nursery',  
5<sup>th</sup> Cross, Jayanagar 1<sup>st</sup> 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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