

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
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No.O A.350/98/ 2018

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr.(Ms) Nandita Chatterjee, Administrative Member

Budhaditya Mukherjee,
Son of Tapas Kumar Mukherjee,
Aged about 33 years,
Residing at 35, Sasibhusan
Mukherjee Road, Behala,
Kolkata – 700 034.

... Applicant.

Versus

1. The Union of India,
Through the Ministry of Science and Technology,
Technology Bhavan, Mehrauli Road,
New Delhi – 110 016.
2. Director,
CSIR Indian Institute of Chemical Biology,
4, Raja S. C. Mullick Road, Jadavpur,
Kolkata – 700 032.
3. Administrative Officer,
CSIR Indian Institute of Chemical Biology,
4, Raja S. C. Mullick Road, Jadavpur,
Kolkata – 700 032.

... Respondents.

For the applicant : Mr. A. Chakraborty , counsel
Ms. P. Mondal, counsel

For the respondents : Mr. J.K. Unnikrishnan, counsel
Mr. M.K. Chaturvedi, counsel

Heard on : 10.09.2018

Order On : 9.10.18.

ORDER

Bidisha Banerjee, Judicial Member

This application has been filed assailing a notification dated 21.09.2017 whereby it was intimated that the selection process for the Post Code No.4101502 under the Institute Advertisement No.R&C/410/2015 has been cancelled due to technical reasons and the same would be re-advertised in due course.

2. The applicant applied against an advertisement dated 16.06.2015 published by the CSIR, Indian Institute of Chemical Biology, for filling up of five vacancies of Scientist/Senior Scientist. He sought consideration against the post of scientist and was selected for the post. He was offered appointment vide letter dated 24.02.2017. However, subsequently such selection was cancelled vide notification dated 21.09.2017. The applicant feels aggrieved as having been offered appointment such cancellation of the selection without any valid reason would be highly prejudicial to him.

3. The advertisement dated 16.06.2015 is as under:-

Advertisement No.	R&C/410/2015
Date of Advertisement	16/06/2015
Vacancy Code	4101502
Last Date of Application	15/07/2015
Position	Scientist in PB-3
No. of Vacancies	5
Name of the Position	Scientist/ Sr. Scientist
Advertisement no.	For <u>Scientist position – PhD submitted</u> (in any field of Biological Science) with publications in the relevant filed. For <u>Senior Scientist position – PhD in any field of Biological Science with 2 year post doctoral research</u> experience in the field of Leishmania research in the areas of cellular immunology/ host-pathogen interaction with publications in the relevant field.
Desirable	Experience in the molecular mechanism of pathogenesis in leishmaniasis.
Job requirement	The selected candidates will be required to work independently as well as a team member in and outside the

	institute in the above areas and other related institutional research programs.
Age Limit	32 years for Scientist and 37 years for Sr. Scientist. (Relaxable by 3 years for OBC Candidates) (The upper age limit is relaxable by 5 years for persons with disabilities. For OBC candidates with disabilities, the upper age limit is relaxable by 8 years.)
Reservation Status	3 Unreserved and 2 Reserved for OBC
Pay Band	Rs. 15,600 – 39,100/-
Grade Pay	The Selection Committee depending upon the performance of the candidate may choose to place the candidate in any of the Grade Pay (Rs. 6600/- Or Rs. 7600/-) within the Pay Band subject to meeting the minimum eligibility criterion specified.
Total Emoluments	The total monthly emoluments at this level inclusive of all allowances would be approximately between Rs. 70,000/- to Rs.80,000/-.
Application fee	Bank Draft of Rs. 100/- drawn in favour of Director, IICB payable at Kolkata. (The application fee is exempted for PH Candidate)
NOTE	1) Please click the Terms and Conditions button below to read the terms and conditions in details. 2) To apply for this vacancy click on HOW TO APPLY below.

4. Ld. counsel for the applicant invited our attention to the list of candidates who fulfilled all essential conditions of the advertisement and the criteria evolved by the Screening Committee and were finally recommended for appearing before the Selection Committee for interview as duly endorsed by Recruitment and Assessment Board, CSIR vide letter dated 02.08.2016. The applicant figures at Srl. No.7 of the list against vacancy code No.4101502.

5. On 27.09.2016 the applicant was advised to appear at an interview to be held on 09.11.2016 and thereafter selected for the post of Scientist/Senior Scientist in the pay band of Rs.15600-39100/- with Grade Pay Rs.6600 for Scientist and Rs.7600 for Senior Scientist.

6. On 24.02.2017 he was informed that he was selected for the post of Scientist in the Grade Pay of Rs.6600 and asked to complete the necessary Attestation Form. Unfortunately, before he could be offered appointment, on 21.09.2017 the impugned notification was issued cancelling the selection.

5. The respondents have disclosed that one, Dr. Sushmita Das preferred a representation alleging wrongful appointment of one, Dr. Sushanta Kar as Senior Scientist with much less experience in the field of Leishmaniasis than her as well as one, Dr. Sumanta De who had no experience in the field of Leishmaniasis essential for the purpose of appointment as per advertisement, yet stood selected. This Tribunal had directed the authorities to consider her representation as per rules and regulations in force and indicated that the respondents No. 2 and 3 would make all just endeavours to give preference to academic credentials as well as personal experience and expertise of the applicant vis-à-vis the private respondents, namely Dr. Sushanta Kar and Dr. Sumanta De.

While disposing of the representation of Dr. Sushmita Das dated 03.05.2017, the matter was reopened. Since after considering the matter in its entirety the authorities found that there was "disconnect between what was advertised and the selection made by IICB, the Director General of CSIR ordered readvertisement for the Post Code 4101502 of IICB".

In the aforesaid backdrop, applicant's representation dated 25.11.2017, against the cancellation of the selection was considered and disposed of vide letter dated 19.03.2018(R-4 to the Reply). In his representation he had clarified that the IICB advertisement was both for Scientists/Senior Scientists and the advertisement clearly mentioned different criteria for selection of Scientist/Senior Scientist and that RAB has not mentioned anything about his selection for the post of Scientist which implied that RAB found no irregularity in his application/selection for the post of Scientist, therefore, his selection be treated as legitimate and appointment order be issued to him.

The applicant was informed that selection in question was cancelled by the competent authority i.e. the DG, CSIR on the ground that "there was a disconnect between what was advertised and the selection made by IICB" and that the posts in question would be readvertised.

6. Ld. counsel for the respondents upon instructions would submit that there was no demarcation between the number of posts of Senior Scientist and Scientist advertised and that if five suitable persons qualified for appointment as Senior Scientists, the respondents were under no obligation to offer the post of Scientist to the one qualified for the said post only, therefore, by virtue of selection the applicant acquired no vested right to the post.

7. At that juncture, the ld. counsel for the applicant would invite our attention to the decision in case of **Union of India & Others vs. Rajesh P.U. Puthuvalnikathu and Another** reported in **2003 Supreme Court Cases(L&S) 1048** wherein in a case of en bloc cancellation of selection Hon'ble Apex Court succinctly held that in a "*Recruitment process*"—"Selection", "*where from out of the selectees it was possible to weed out the beneficiaries of irregularities or illegalities, there was no justification to deny appointment to those selected candidates whose selection was not vitiated in any manner*" and held "*the decision cancelling the selections in their entirety was rightly held to be irrational by High Court*".

8. Ld. counsel for the respondents would submit that there was no possibility of segregation of selection against the post of Scientist against which the applicant qualified and that of Senior Scientists as there was no clear demarcation of posts between the two. Therefore, because of irregular selection of two Senior

Scientists he could not be allowed to join. Upon instruction, Id. counsel for the respondents would further submit that presently the Recruitment Rules have been framed with a clear demarcation against the posts of Scientist and Senior Scientist and the posts would be readvertised in terms of new Recruitment Rules and that if the applicant is now eligible to compete against the post of Senior Scientist and he applied as such, he would be duly considered.

9. We heard the rival contentions.

10. We noted that despite liberty to proceed with selection in regard to the four posts keeping one post of Scientist reserved, the respondents have not chosen to proceed as such. We also noted that the applicant in no way can be blamed for the wrongful selection of two Senior Scientists as mentioned supra. The grievance of the applicant in O.A.258/2017 can be suitably ameliorated by segregating his case from that of such wrongfully selected Senior Scientists, in terms of the judgment referred to supra.

11. In such view of the matter we permit the respondents to readvertise the post of Scientist/Senior Scientist without touching the selection of the present applicant.

The O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member



(Bidisha Banerjee)
Judicial Member

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