

**Central Administrative Tribunal
Principal Bench**

**OA No.1237/2016
MA No.470/2019**

New Delhi, this the 4th day of February, 2019

**Hon'ble Sh. Justice L. Narasimha Reddy, Chairman
Hon'ble Sh. Mohd. Jamshed, Member (A)**

Dr. Suresh Bhandarkar
Aged about 60 years
Assistant Director(Yoga), CCRYN(Retired)
61-65, Institutional Area, Opp. D-Block
Janakpuri, New Delhi-110058. ... Applicant

(By Advocate: Shri Anuj Aggarwal for Ms. Manika V Aggarwal)

Vs.

1. Union of India through Joint Secretary
Ministry of AYUSH, AYUSH Bhawan
'B' Block, GPO Complex
INA Market, New Delhi-110023.
2. Central Council for Research in Yoga & Naturopathy
Through the Director (CCRYN)
Ministry of Ayush
61-65, Institutional Area
Opp. D-Block, Janakpuri
New Delhi-110058. ...Respondents

(By Advocate: Shri Virendra Kumar for Shri Gyanendra Singh)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

The applicant joined the service of the Central Council of Research in Yoga and Naturopathy as Assistant

Director. He made a representation to the respondents stating that in three similar Councils which are functioning under the Ministry of AYUSH, the facility of *in-situ* promotion and Non Practicing Allowance(NPA) exists, whereas he is denied the same.

2. Through a reply dated 23.11.2015, the respondents informed the applicant that the qualification for the post held by him is only a graduation from a university or a degree or diploma in Yoga and it is not at all essential for a person to hold a graduate or post graduate degree in medicine of any discipline and in that view of the matter, he is not entitled to be paid the Non Practicing Allowance. It was also mentioned that the benefit of *in situ* promotion exists only in research-oriented posts. The same is challenged in this OA.

3. The applicant contends that when the nature of activities undertaken by all the four Councils under the Ministry is similar, there is absolutely no basis for meting out a discriminatory treatment to him.

4. The respondents filed a counter affidavit stating that the facility of Non Practicing Allowance is extended in

cases where the qualifications stipulated for a post are of graduation in medicine or surgery in any particular discipline and in the instant case, it is not so. The plea as regards *in situ* promotion is also resisted.

5. We heard Shri Anuj Aggarwal for Ms. Manika V Aggarwal, learned counsel for applicant and Shri Virendra Kumar for Shri Gyanendra Singh, learned counsel for respondents.

6. The applicant claimed the benefit of Non Practicing Allowance and *in situ* promotion. It is no doubt true that in respect of some posts in other Councils under the Ministry of AYUSH, the Non Practicing Allowance is being paid. That however, is in respect of the post for which the prescribed qualification is a degree in medicine in the Department of AYUSH (*Ayurveda, Unani, Siddha and Homoeopathy*). For the post held by the applicant, the qualifications are degree from a recognized university and diploma in Yoga from an Institution. Alternate qualification is also mentioned. The same is extracted in the impugned communication. Nowhere, we find that stipulation as to holding of degree in medicine or surgery is necessary.

7. It is rather incidental that the applicant, who holds a degree in Ayurvedic Medicine, was selected to the post of Assistant Director. The mere fact that he holds such a degree does not entitle him to claim the benefit of Non Practicing Allowance.

8. The *in situ* promotion is a facility mostly in cases where the posts are research oriented. It is not even asserted that the post held by the applicant is research-oriented, nor is there any such mention in the Service Rules.

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

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10. In view of the Order passed in the OA, this MA stands disposed of.

**(Mohd. Jamshed)
Member(A)**

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

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