

**Central Administrative Tribunal
Madras Bench**

OA/310/01413/2015

Dated the 27th Day of August Two Thousand Nineteen

P R E S E N T

Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)

Dr.I.Chelladurai,
S/o late M.Iyyanar,
Research Officer (Siddha),
Siddha Medicine Plants Gardens,
Camp Office,
Opposite to Uhazhavar Sandhai,
Mettur Dam, Salem District.
By Advocate **M/s.A.Arulmozhi**

.. Applicant

Vs.

1. The Union of India, rep by
The Secretary to Government of India,
M/o AYUSH,
'B' Block G.P.O. Complex,
Ayush Bhavan,
Behind INA Market,
New Delhi 110 023.
2. The Director General,
Central Council for Research in Siddha,
SCRI Building,
Arignar Anna Hospital Campus,
Arumbakkam, Chennai-106.

.. Respondents

By Advocate **Mr.M.Kishore Kumar-SPC**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“.....to direct the respondents to consider the applicant's name for promotion to the post of Assistant Director (Siddha) with regard to the vacancies arose due to the retirement of Dr.T.Anandhan (31.5.2011) and Dr.G.Masilamani (30.11.2011) and grant him promotion according to the seniority and eligibility as on 01.1.2012 with all attendance benefits and pass such further or other orders as this Tribunal may deem fit and proper and thus render justice.”

2. The case of the applicant is that he was appointed as Research Officer (Siddha) on 18.9.96 in the Reserved Quota for SC. He has completed 19 years of service in various places. He is now working in Siddha Medicinal Plants Garden, Mettur. A vacancy of Assistant Director (Siddha) arose on 30.11.2011. The applicant is the senior most in the feeder category and he was expecting a promotion. But the DPC was not conducted for the year 2012, 2013 and 2014. Whiles, on 26.7.2013 a charge memo was issued against him for the alleged misconduct under Rule 22(b) & (c) of the CCS (Conduct) Rules, 1964. After conducting enquiry a minor penalty of withholding increment for 3 years w.e.f. 01.7.2014 was imposed on him without cumulative effect.

3. A DPC was conducted on 18.9.2015 and all the juniors of the applicant were promoted as Assistant Director (Siddha). The crucial date of consideration for the vacancy was 01.1.12. The ACRs of the applicant for preceding 5 years were “Good”. The DPC ought to have considered his name for promotion but they have not

considered the same as he was undergoing punishment.

4. The respondents appeared and filed a detailed reply statement admitting the vacancies. According to them, the Director General, CCRS was the Director, Department of AYUSH till 27.12.2012. Since he was holding only temporary charge, he could not attend to statutory duties and he could not fill up the vacant post. Ultimately the department has fixed DPC on 18.9.15. According to the respondents, the applicant was included for consideration in the said DPC and the DPC has not recommended his name for promotion in view of the misbehaviour and bad antecedents committed by the applicant during his service. The Committee did not recommend him for promotion. It is only because of that he was denied promotion. The respondents have filed a detailed report regarding the services of the applicant and the various incidents showing the bad behaviour of the applicant for the last 10 years. So, according to the respondents, the applicant is not entitled to get any promotion as claimed by him.

5. The applicant produced 8 documents as Annexure A1 to A8 and the respondents produced Annexure R1 to R21.

6. The main contention of the applicant was that the charge memo was issued to him only in the year 2013 and there was no disciplinary action pending when the vacancies arose in the year 2012. So, he ought to have been considered for promotion by the DPC for the vacancy of that year. Instead, the DPC has not recommended him for promotion and they have given promotion to his juniors.

7. We have anxiously heard the counsel for the applicant and the counsel for the

respondents. On a perusal of the pleadings, it can be seen that the applicant was working as Research Officer (Siddha) under the respondents and the chronological events showing the incident of misbehaviour committed by him is produced as Annxure R1. The applicant has not challenged the above allegations and he had also not denied any of the said allegations. On a perusal of the said Annexure R1, it can be seen that the applicant was in the habit of consuming liquor and many incidents had taken place in the office. A complaint of sexual harassment was also filed against him in the year 2006. He was issued with a warning memo for his unauthorised absence in the year 2007. Owing to the bad behaviour, he has to be transferred to RRI, Puducherry in the year 2008. In the year 2008, the Assistant Director, SRRI Puducherry had complained that the applicant is coming to the office in an intoxicated condition and behaved very badly with the patients and staff members and created unpleasant atmosphere in the office. In 2008, the CCRAS has directed the AD, SRRI, Puducherry to arrange for counselling and yoga practices for the applicant in an attempt to reform him. Again he was issued with a memo in the year 2009 for coming to the office in intoxicated condition. Memos were also issued against him for non-payment of loan taken by him from the society and for overstaying the sanctioned leave from 02.3.2010 to 05.3.2010. The AD, CRIS had reported on 23.11.2011 that he had seen one Dr.A.Suresh and the applicant herein consuming liquor during office hours regularly. There had also taken place a beating incident between one M.Muthu, Field Collector and the applicant. Again the RO (Botany), SMPG, Mettur Dam stated that the applicant is coming fully drunk to the

office and abused every staff member on 28.7.2012. A Show Cause Notice was issued to the applicant for various misconducts. Another Show Cause Notice was issued on 15.3.2013 to the applicant for coming in a drunken state, arguing with Mrs.Suresh, wife of Dr.A.Suresh over phone, quarrelling with Mrs.Suresh in an uncivilized manner in the market place and remaining on leave most of the days and often seen in CCRS (HQs) in drunken state. Enquiries were conducted and according to the respondents, a very lenient view was taken against him in all the above incidents except the imposition of cutting increments in the year 2013. The applicant has only a right for consideration and he cannot claim to get promotion as of right.

8. In view of the circumstances revealed in this case, we are of the view that there is no merit in the contention put forward by the applicant in this case. So, the applicant is not entitled for any relief claimed by him. Accordingly, OA will stand dismissed. No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

27.08.2019

/G/

Annexures referred to by the applicant in OA No.310/01413/2015:

Annexure A1: Recruitment Rules for the post of Assistant Director (Siddha).

Annexure A2: DOPT O.M.No.22011/4/91 Estt(A) procedure and Guidelines to be followed for promotion of Government Servants dated 14.9.1992.

Annexure A3: Appointment order issued to the applicant dated 09.9.1996.

Annexure A4: Office Order No.226/96 appointing applicant in the post of Research Officer at Kalsa dated 19.11.1996.

Annexure A5: CCRAS appointing the applicant as a Member of the Governing body of the CCRAS dated 14.10.2003.

Annexure A6: Office order No.141/2013-14 of the 2nd respondent imposing minor penalty to the applicant dated 17.10.2013.

Annexure A7: DOPT No.22011/4/2007 Guidelines on treatment of effect of penalties on promotion dated 28.4.2014.

Annexure A8: DPC for filling up of the post of Assistant Director (Siddha) in CCRS dated 15.9.2015.

Annexures with reply statement:

Annexure R1: Chronological events indicating the behaviour and attitude of Dr.I.Chelladurai, Research Officer (S) towards his duty, during the last 10 years.

Annexure R2: Memo No.F.2-2/03-03/Accts.?CRIS dated 11.2.2004.

Annexure R3: A complaint in Tamil by E.Santhi, Staff Nurse dated 13.7.2006.

Annexure R4: Report on the enquiry conducted on 08/12/06 by the Committee for prevention of Crime and Sexual Harassment to Women in Working Place.

Annexure R5: Memo No.F.3-2/87-CRIS/Estt/087 dated 18.7.2007.

Annexure R6: A complaint from the father of E.Santhi, Staff Nurse dated March 2008.

Annexure R7: A complaint by AD, SRRI Puducherry No.F.No.5-12/RRI(S)/2008-09/Disc/316 dated 18.9.08.

Annexure R8: A complaint by CCRAS F.No.4-24/96-CCRAS/Estt. dated 11.11.08.

Annexure R9: Memo F.No.4-24/96-CCRAS/Estt. dated 11.11.08.

Annexure R10: Memo F.5-12/RRI(S)/2009-10/Disc/74 dated 18.5.09.

Annexure R11: Memo No.4-24/96-CCRAS/Estt. dated 04.2.10.

Annexure R12: Memo No.4-24/96-CCRAS/Estt. dated 08.4.2010.

Annexure R13: Submission of report by AD, CRIS, Chennai in No.F-12-1/2011/SCRI/Audit dated 23.11.2011.

Annexure R14: Letter by RO(Botany), SMPG, Mettur Dam dated 28.7.2012.

Annexure R15: Show Cause Notice F.No.5-19/2011-CCRS/Admn./Hqrs./256 dated 27.8.2012.

Annexure R16: Letter by AD, SRRI, Puducherry F.No.5-6/SRRI/2012-13/SMPG/Mettur/37 dated 09.7.2012.

Annexure R17: Report on the incident happened on 29.1.2013 dated 29.1.2013.

Annexure R18: Show Cause Notice Ref.No.5-19/2011-CCRS/Admn/HQrs/555 dated 15.3.2013.

Annexure R19: Office Memorandum No.5-19/2011-CCRS/Admn/HQRS dated 29.5.2013.

Annexure R20: Letter from Enquiry Committee for SMPG, Mettur Dam dated 12.7.2013.

Annexure R21: Memorandum F.No.5-19/2011-CCRS/Admn/HQrs/237 dated 26.7.2013.