

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

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**ORIGINAL APPLICATION NO.060/01136/2019**  
**Chandigarh, this the 05<sup>th</sup> day of November, 2019**

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)**

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Dr. Narinder Singh Bhardwaj,  
aged 52 years  
s/o Late Sh. Ram Saroop,  
R/o H. No. 2504,  
Sector 19 (C) Chandigarh – 160019  
Group A

**....Applicant**

**(Present: Mr. Vinay Pandey, Advocate)**

**Versus**

1. Union Territory of Chandigarh through its Administrator, U.T. Secretariat Building, Sector 9, Chandigarh – 160009.
2. Adviser to the Administrator, Chandigarh Administration, U.T. Secretariat Building, Sector 9, Chandigarh – 160009.
3. Home Secretary cum Secretary, Health, Chandigarh Administration, UT Secretariat Building, Sector 9, Chandigarh – 160009.
4. The Director, AYUSH, Govt. Ayurvedic and Homoeopathic Dispensary Complex, 1<sup>st</sup> Floor, Sector 24-B, Chandigarh – 160023.

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**Respondents**

**ORDER (Oral)**

**SANJEEV KAUSHIK, MEMBER (J)**

1. The applicant is before this Court seeking issuance of a direction to the respondents to modify/change the nomenclature of the post of Deputy Director (Ayurvedic) to Joint Director (Ayurvedic) in AYUSH department as per the rules of Punjab Government, as applicable to the Union Territory of Chandigarh. As an alternative, he also seeks issuance of a direction to the respondents to decide his pending representations (Annexure A-8 colly) by passing a reasoned and speaking order.

2. Heard.

3. Learned counsel for the applicant submitted that there are two wings, one Ayurvedic and another Homeopathy. For the post of Director (AYUSH), Joint Director (Homeopathy) and Joint Director (Ayurvedic), both are eligible for appointment by way of promotion. The applicant, at present, is working as Deputy Director (Ayurvedic) with the Chandigarh Administration and as per the notification dated 13.01.1992, his service conditions are governed by the rules governing the corresponding post in the State of Punjab. It is submitted that vide notification dated 05.08.2016, the nomenclature of the post of Senior Medical Officer (Homoeopathy) was changed to that of Joint Director (Homoeopathy) on Punjab pattern. He contends that since the nomenclature of the post of Deputy Director (Ayurvedic) has not been changed, rather the junior working in the Homoeopathy wing has been upgraded to Joint Director and likely to become senior to the applicant, who is already working as Deputy Director (Ayurvedic) and senior most in AYUSH department, yet Homeopathy

Wing Officers may steal a march over Ayurvedic Wing in promotion to higher post.

4. Learned counsel alleges discrimination as the post of Deputy Director (Ayurvedic), presently held by applicant, has to be designated as Joint Director (Ayurvedic) as per the Punjab pattern as has been done in the case of Homoeopathy wing of the department and on the other hand, he has reasonable apprehension that this disparity would have adverse impact on interest of the applicant because the person junior to him working in the Homoeopathy Wing, will be eligible for promotion to the post of Director whereas the applicant, despite the fact that he joined Administration at earlier point of time than the person working in the Homeopathy Wing, and not designated as Joint Director (Ayurvedic), on Punjab pattern will suffer and would lose promotion to the post of Director. He submitted that he made number of representations (Annexure A-8 colly), seeking redressal of his grievance which has remained unanswered and as such respondents may be directed to consider and decide indicated representations, as per law within a month and till such time, respondents be restrained from filling up the post of Director.

5. At this stage, Mr. R.K. Sharma, Advocate, who is present in the Court appears and informed this Court that he was a counsel for one Ms. Rama Sharma (in Homeopathy Wing), against whom the applicant in this case is asking for restrain order, for re-designation as Joint Director (Homeopathy). He argues that she had approached this Court by filing an O.A. No.060/00373/2018 with a prayer, inter-alia, to consider her claim for the post of Joint Director (Homeopathy), which was dismissed as withdrawn, with liberty to her to file a

representation, which was to be decided by respondents by passing speaking order. Her claim was rejected vide order dated 14.1.2019, on the ground that only senior most eligible officer in the cadre, if any, will be considered for the purpose of change in nomenclature to the post of Joint Director (Homoeopathy) and change in nomenclature does not involve up-gradation of the post and pay scales already attached to the post of Assistant Director (Homeopathy).

6. Mr. Sharma further submits that order dated 14.1.2019 is under challenge in O.A.No.060/00569/2019 and Ms. Rama Sharma has sought issuance of direction to the respondents to consider her case for promotion from the post of M.O. to the post of SMO, re-designated as Assistant Director (homeopathic) and now Joint Director (Homeopathic) in the pay scale of Rs.15600-39100+GP Rs.8400/-, which is pending adjudication in this Tribunal. He, therefore, submitted that since applicant has not impleaded Ms. Rama Sharma, as a party in this case, therefore, no restrain order should be passed against her rights. However, he submitted that he has no objection in grant of relief claimed in the O.A. for change of nomenclature of the post of Deputy Director (Ayurvedic) to Joint Director (Ayurvedic). He further submitted that if she is promoted to the newly re-designated post of Joint Director (Homeopathy), prior in time than the applicant, then on that account, she will not claim promotion to the post of Director (AYUSH) over and above the applicant in this case, because he is even otherwise senior to his client and moreover, she was going to retire from service in early, 2020.

7. Considering the short prayer made by learned counsel for the applicant that there is no need to issue notice to the respondents,

more so when court has heard Mr. R.K. Sharma, Advocate, for the person who was likely to be affected. As agreed, it would be just and proper to dispose of this O.A., in limine, with a direction to the competent authority amongst the respondents to consider and decide the representations (Annexure A-8 Colly), of the applicant, as per law by passing a reasoned and speaking order within a period of one month from the date of receipt of a copy of this order. Ordered accordingly.

8. In so far as interim relief asked for by the applicant is concerned, if the respondents decide to fill up the post of Director (AYUSH) by promotion or give current duty charge, amongst the likely re-designated Joint Directors, it is directed that they will do so by considering the service of officers of both wings in relevant cadre, and whoever is senior in feeder cadre, may be considered for promotion, being settled law. No costs.

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

**PLACE: CHANDIGARH.**  
**DATED: 05.11.2019**

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