



**Central Administrative Tribunal
Principal Bench**

**OA No.3693/2018
MA No.4092/2018**

New Delhi, this the 9th day of December, 2019

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

Dr. Ajay Sachan,
R/o Flat No.D-302,
Shree Ganesh Apartment,
Plot No.93, I.P. Extension, Patparganj,
Delhi-110092.

...Applicant

(By Advocate : Shri Mohinder Kumar Madan with
Ms.Rashmi B.Singh)

Versus

1. Union of India,
Through its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, Government of India,
New Delhi.
2. The Drugs Controller General (India),
Central Drugs Standard Control Organisation
CDSCO (HQ),
FDA Bhawan, Kotla Road,
New Delhi-110002.

...Respondents

(By Advocate : Shri Rajeev Kumar)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant was initially selected and appointed as Drugs Inspector in the GNCTD on 24.04.2001. He came on deputation as Assistant Drugs Controller (ADC) (I), to the Central Drugs Standard Control Organization (CDSCO), under the Ministry of Health, Govt. of India, on 01.05.2013. When he was continuing in that position, a notification was issued by the UPSC for appointment and selection to the post of ADC(I) in the CDSCO, Ministry of Health. The applicant responded to the same and he was ultimately selected. The services of the applicant with the GNCTD were brought to an end through the repatriation and consequential technical resignation on 11.03.2016, and he was appointed on direct recruitment in the CDSCO as ADC (I) on 15.03.2016.

2. The next higher post in the Ministry is Deputy Drugs Controller (DDC) (I). The method of recruitment to that post is 50% by promotion from ADC(I), failing which by direct recruitment and 50% by way of direct recruitment. To be qualified for promotion, an ADC (I)



must have five years of standing in that post. The respondents did not consider the applicant for promotion to the post of DDC (I), on the ground that he can count his service of ADC(I) only from the date on which he was appointed in the Ministry of Health i.e. 15.03.2012. A representation made by the applicant in this behalf was rejected. This OA is filed with a prayer to direct the respondents to consider the case of the applicant for promotion to the post of DDC (I), by taking into account, the service rendered by him as ADC (I) w.e.f. 01.05.2013.

3. The applicant contends that when he has rendered service as ADC (I) w.e.f. 01.05.2013, in the CDSCO, the mere fact that a part of service was on deputation basis should not make much difference.

4. The respondents filed counter affidavit opposing the OA. It is stated that though the applicant was appointed on deputation as ADC(I), that came to an end on account of his repatriation and the applicant can count his service only from the date of his appointment as ADC(I) in the CDSCO.



5. We Heard Mohinder Kumar Madan, learned counsel for applicant and Shri Rajeev Kumar, learned counsel for respondents.

6. The issue involved in this OA is about the eligibility of the applicant to be considered for promotion to the post of DDC(I). The Recruitment Rules, for the post of ADC(I), stipulate the conditions, as under :-

Method of rectt. Whether by direct rectt. or by promotion or by deputation/transfer & %age of the vacancies to be filled by various methods	In case of rectt. by promotion/deputation/transfer to grades from which promotion/deputation /transfer to be made.
11	12
i) 50% by promotion failing which by direct rectt. ii) 50% by direct rectt.	<u>Promotion</u> i) Assistant Drugs Controller (India) ii) Biochemist iii) Pharmacologist with 5 years' regular service in the respective grades. Note : The eligibility list for promotion shall be prepared with reference to the date of completion by the Officers of the prescribed qualifying service in the respective grade/post.

7. The applicant wanted his case to be considered for promotion under the 50% promotion category. It is not in dispute that he held the post of ADC(I) for a period of five



years. That, however, is split into two parts i.e. from 01.05.2013 to 11.03.2016 as deputationist, and from 15.03.2016 onwards as direct recruit. The respondents intend to take into account only the latter part of it.

8. A perusal of the column 12 extracted above, discloses that the provision does not maintain a distinction between the service rendered as a deputationist on the one hand, and the direct recruit on the other. The only condition is that the service should be regular in nature.

9. Had the recruitment rules not provided for deputation as one of the methods for recruitment to the post of ADC(I), the stand taken by the respondents can certainly be treated as correct. The Recruitment Rules for the post ADC(I) stipulate the deputation as one of the methods. The provision reads as under :-

“100% Promotion failing which by deputation (including short-term contract) failing both by direct recruitment.”



The deputation of the applicant was under this provision. Therefore, the service rendered in that capacity cannot be treated otherwise than regular.

10. The issue can be examined from another point of view. Take for instance, the case of a DDC (I) born on the rolls of CDSO itself. Soon after he was appointed to that post, he went on deputation to another organisation and rendered five years of service there. Though the entire service as ADC (I) was in a department or organization other than CDSCO, he is treated qualified for promotion to the post of DDC(I). That being the case, the applicant who rendered his five years of service in the CCDSO itself, cannot be treated as not qualified. It is a different matter that he has to take his chance, in accordance with the place in the seniority, in the post of ADC(I). In other words, if there are any seniors to him in the CDSCO, his case can be considered, only after, they are promoted.

12. We, therefore, allow the OA and direct the respondents to count the service of the applicant as ADC(I) w.e.f. 01.05.2013 and extend him the benefit of the promotion to the post of DDC(I), if he is otherwise



found fit. We also make it clear that he shall take his chance, in accordance with the seniority, in the post of ADC(I).

Pending MAs, if any, shall stand disposed of.

There shall be no orders as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

'rk'