
(2021) 03 CAT CK 0131

In the Central Administrative Tribunal

Case No : Original Application No. 2189 Of 2020, Miscellaneous Application No. 2786 Of 2020

Dr. Manjula Kiran & Others

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 24-03-2021

Acts Referred:

Citation : (2021) 03 CAT CK 0131

Hon'ble Judges : L. Narasimha Reddy, J;A. K. Bishnoi, Member (A)

Bench : Division Bench

Advocate : C. M. Gopal, Gautam Das, Dr. Ch. Shamsuddin Khan, Jasbir Singh

Final Decision : Dismissed

Judgement

L. Narasimha Reddy, J

1. The applicants were selected and appointed as Junior Scientists in the year 2010 in the National Institute of Biologicals, an autonomous institute under the Ministry of Health and Family Welfare. The Recruitment Rules (RRs) provided for promotion to the post of Scientist Grade-III, on completion of five years of service in the post of Junior Scientist.

2. At the relevant point of time, the appointments to the post of Scientist Grade-III were to be made through promotion to the extent of 66% from the feeder category and 33% by way of direct recruitment. The RRs were amended in the year 2015. The ratio was changed to the one of 33% by way of promotion and 66% by direct recruitment. In the year 2019, the respondents issued an advertisement proposing to fill up 3 posts of Scientist Grade-III, through direct recruitment.

3. The applicants filed this OA challenging the said advertisement. According to them, when the posts exist, they ought to have been filled up in accordance with the ratio stipulated under the un-amended RRs, and there is absolutely no basis to divert all the three vacancies to the direct recruitment quota. Certain other

grounds are also raised.

4. On behalf of the respondents, a detailed counter affidavit and an additional affidavit, are filed. According to them, appointment to the post of Scientist Grade-III, used to be exclusively by way of direct recruitment till the year 2008 and a provision was made for promotion to the extent of 66% in the year 2008. It is stated that after reviewing the entire situation, the RRs were amended restricting the promotion to 33% and leaving 66%, for direct recruitment. It is also stated that the balance in this behalf was perfectly maintained for filing the sanctioned strength of 12 posts upto the year 2015, and that 6 more posts were sanctioned at the relevant point of time. It is stated that the notice was issued in respect of three posts, which were immediately available and the ratio was never disturbed, and as of now there are 10 posts of Scientist Grade-III appointed through promotion and 8 officers, appointed through direct recruitment. Various contentions urged by the applicants are denied.

5. Today, we heard Mr. C.M. Gopal, learned counsel for the applicant and Dr. Ch. Shamsuddin Khan & Mr. Jasbir Singh, learned counsel for the respondents.

6. The controversy in this OA is about the method of promotion to the post of Scientist Grade-III. It is not in dispute that the applicants acquired the eligibility to be considered for promotion. It has already been mentioned that till the year 2008, appointment to the post of Scientist Grade-III was exclusively through direct recruitment, but it was modified in the year 2008, providing for appointment by way of promotion to the extent of 66%. The Rules were further amended in the year 2015. This time, the ratio of appointment through promotion was reduced to 33% and correspondingly, the ratio of direct recruitment was enhanced to 66%.

7. By the time, the 2015 RRs came into force, there existed 12 posts in the organization and they were filled as under:-

TABLE-1

BY PROMOTION

S.

No.

Occupied by Promotees

Date of occupied the

position

1.

Ms. Ajanta Sircar

03.02.2009

2.

Ms. Sudha V. Gopinath

03.02.2009

3.

Ms. Kanchan Ahuja

03.02.2009

4.

Dr. Rajesh Kumar Sharma

03.02.2009

5.

Ms. Gurminder Bindra

20.05.2009

6.

Ms. Shalini Tewari

20.05.2009

7.

Mrs. E. Madhu

01.10.2009

8.

Dr. Meena

06.05.2013

TABLE-2

BY DIRECT

The ratio of 66% by promotion and 33% by direct recruitment, was perfectly maintained.

8. Six more posts were sanctioned thereafter. By that time, the 2015 RRs came into force. The plea of the applicants that the un-amended rules must be operated, in respect of the vacancies that existed prior to the amendment, would hold good only in respect of the vacancies that existed at a time when the rules were made. The vacancies that are added later, need to be operated in accordance with the rules, which are in force at the relevant point of time.

9. After 2015, the respondents promoted two Junior Scientists to the post of

Scientist Grade-III on 19.01.2016, when two Scientist Grade-III who were appointed through direct recruitment, were retired. It is not the case of the applicants that their chances of being promoted at that point of time were ignored and defeated in any way. In the changed scenario of proportion between the promotees and direct recruits under the 2015 RRs, the allocation is also bound to be changed. In other words, as of now, there are 18 vacancies and over the period, it must be operated in such a way that 33% are filled with the promotees and 66% by direct recruitment. It is a different matter that those who were already promoted under the 66% allocation would remain in service and the resultant vacancies have to be adjusted according to the rules. By the end of 2016, the picture emerged as under:

TABLE-3

BY PROMOTION

S. No.

Occupied by Promotees

Date of occupied the
position

1.

Ms. Ajanta Sircar

03.02.2009

2.

Ms. Sudha V. Gopinath

03.02.2009

3.

Ms. Kanchan Ahuja

03.02.2009

4.

Dr. Rajesh Kumar Sharma

03.02.2009

5.

Ms. Gurminder Bindra

20.05.2009

6.

Ms. Shalini Tewari

20.05.2009

7.

Mrs. E. Madhu

01.10.2009

8.

Dr. Meena

06.05.2013

9.

Shri Pankaj Kumar Sharma

19.01.2016

10.

Shri N. Nanda Gopal

19.01.2016

TABLE-4

BY DIRECT

S.

No.

Occupied by Promotees

Date of occupied the position

1.

Dr. Richa Barranwal

21.08.2009

2.

Ms. Rashmi Srivastava

24.09.2009

3.

Dr. Akansha Bishtl

17.09.2015

4.

Shri Tara Chand

14.10.2015

5.

Dr. Manoj Kumar

15.10.2015

6.

Shri Subhash Chand

15.10.2015

7.

Shri Jaipal Meena

15.10.2015

8.

Dr. Ashwani Kumar Dubey

04.08.2016

It cannot be said that there was any deviation from the proportion, stipulated under the service rules, to the detriment of promotees.

10. It is also brought to our notice that the applicants have taken part in the written test, that was held on 13.12.2020. They have to await the outcome thereof. Learned counsel for the respondents, however, submitted that the applicants were adequately compensated on account of the delay in promotion, by extending them the benefit of MACP.

11. Learned counsel for the applicant also relied upon certain precedents. However, since the issue is fairly well settled and it is a matter of filling of vacancies, according to the rules, we have not chosen to reproduce them in detail.

12. We do not find any merit in the OA. It is accordingly dismissed.