

Central Administrative Tribunal
Jammu Bench, Jammu

Original Application No. 61/1469/2022



Hearing through video conferencing

This the 21st day of October, 2022

Hon'ble Mr. Suresh Kumar Batra, Member (J)

1. Pooja Sharma, Aged 54 years, W/o Sh. Shashi Datt Goswami, R/ House No. 42, Patoli Mangotrian, Jammu-180007.
2. Kamal Netar, Aged 56 years, S/o Late Sh. Om Prakash, R/o House No. 56, Lane No. 2, Shakti Nagar, Jammu-180001.
3. Kamlesh Kumari, Age 57 years, W.o Late Sh. Kush Kumar, R/o House No. 133, Lane No. 6, Muthi Camp, Lower Roop Nagar, Chandan Vihar, Jammu-181205.

...Applicants

(Through Advocate: Mr. Nitin Bhasin)

Versus

1. UT of J&K through Commissioner/Secretary to Government Health and Medical Education Department, Civil Secretariat, Jammu/Srinagar-180001.
2. Director, Indian System of Medicine, J&K Government, Jammu/Srinagar-180006.
3. Assistant District Medical Officer, ISM, Jammu. (Chairman, Departmental Promotion Committee)-180005.

...Respondents

(Through Advocate: Mr. Sudesh Magotra Ld. A.A.G.)

ORDER

Mr. Nitin Bhasin, Ld. Counsel for applicants and Mr. Sudesh Magotra, Ld. A.A.G. for respondents are present.

2. M.A. No. 61/849/2022 has been filed by applicants under Rule 4(5) of Central Administrative Tribunal (Procedure) Rules, 1987, seeking permission of this Tribunal to join together and file a single

application. Heard, as the cause and nature of relief prayed for by all the applicants is similar in nature, the M.A. is allowed.



2. By way of instant O.A, the applicants are seeking a direction to respondents to grant the effect of promotion as Junior Pharmacist to the applicants retrospectively from the date, the benefit of promotion has been extended to the Nursing Orderlies promoted as Junior Pharmacists in other districts, i.e., notionally w.e.f, 31.12.2014 and monetarily w.e.f., 01.02.2018 on the same analogy and by adopting the same parameters, which were adopted by the respondents while making promotions in other districts, with all consequential benefits.

3. Ld. Counsel for applicants submitted that the applicants were appointed as Class IV (Nursing Orderly) in the year 1998 in terms of orders issued by Respondent No. 2. Vide order dated 02.04.2013, a separate department of ISM was created in the year 2003 and re-organization of Pharmacists (Indian System of Medicine) at par with Pharmacists in the Health Department was done. On 16.10.2017, the respondents convened DPC for considering promotion of in-service Orderlies/Nursing Orderlies (Dawasaz Diploma holders) (District Level) to the post of Jr. Pharmacist in respect of various districts of Jammu/Kashmir Division. On the basis of recommendation of the DPC dated 01-02-2018, the orders of promotion of Matriculate & Diploma Holder Nursing Orderlies/Orderlies as Jr. Pharmacist were issued in respect of other districts of Jammu/Kashmir Division on



01.02.2018, however, promotion orders in favour of applicants were not issued by respondents. Hence, applicant nos. 1 and 2 filed SWP No. 2082 of 2018 and applicant no. 3 filed WP (C) 815 of 2020 before the Hon'ble High Court of Jammu and Kashmir. The Hon'ble High Court allowed SWP No. 2082 of 2018 vide order dated 29.01.2020 directing Respondent No. 2 to convene DPC at the earlier to consider the cases of all eligible Nursing Orderlies/Class employees including the applicants for promotion to the post of Jr. Pharmacist. The Hon'ble High Court further directed that the consideration of applicants and other eligible candidates would be against the three posts of Jr. Pharmacist presently lying vacant in District Cadre Jammu and if need be by withdrawing four posts of Jr. Pharmacist from J&K SSB and the whole exercise culminating into issuance of formal orders of promotion by Respondent No. 2 within six weeks. It was further directed that while according consideration to applicants and other eligible candidates for promotion, the parameters which were adopted by the department while making promotions in other districts shall be adhered to. The Writ Petition filed by Applicant No. 3 was also disposed of with similar directions by virtue of judgement dated 13.03.2020. Thereafter, vide Order dated 12.05.2021, Respondent No. 2 accorded sanction for promotion of Nursing Orderlies in District Jammu to the post of Junior Pharmacists. Applicant No. 1 was given promotion as Junior Pharmacist w.e.f, 20.01.2021 and Applicant Nos. 2 and 3 were given promotion as Junior Pharmacist w.e.f., 28.01.2021. The grievance of the applicants



now is that the Hon'ble High Court while allowing the Writ Petitions had directed the respondents to convene DPC to consider the cases of all eligible Nursing Orderlies including the applicants herein for promotion to the post of Junior Pharmacist and while according consideration to applicants and other eligible candidates for promotion, the parameters which were adopted by respondents while making promotion in other districts shall be adhered to. But the respondents, while considering the promotion of applicants to the post of Junior Pharmacist have not adopted the same parameters which were adopted by them while making promotion in other districts, which is evident from the fact that the applicants have been given the effect of promotion from 20.01.2021 & 28.01.2021 only, whereas the Nursing Orderlies promoted as Junior Pharmacists in other districts have been given the promotion benefits retrospectively i.e., notionally w.e.f., 31.12.2014 and monetarily w.e.f., 01.02.2018.

4. Ld. Counsel for applicants further submitted that the grievance of the applicant would be redressed, if a direction is issued to respondents to grant effect of promotion as Junior Pharmacist to the applicants retrospectively from the date the benefit of promotion has been extended to the Nursing Orderlies promoted as Junior Pharmacists in other districts, i.e., notionally w.e.f., 31.12.2014 and monetarily w.e.f., 01.02.2018 on the same analogy and by adopting the same parameters which were adopted by the respondents while making promotion in other districts, with all consequential benefits.

5. Mr. Sudesh Magotra, Ld. A.A.G. appeared on behalf of the respondents and made in the O.A.



6. I have considered the submissions made by the Ld. Counsels for both the sides and perused the material on record. I am of the view that no fruitful purpose would be served in keeping the O.A. pending and the same can be disposed of by directing the respondents to consider the case of applicants. Accordingly, without expressing any opinion on the merits of the case, the O.A. is disposed of at admission stage with direction to respondents to treat a copy of this O.A. as representation of applicants for considering their claim for granting effect of promotion as Junior Pharmacist to them retrospectively from the date the benefit of promotion has been extended to the Nursing Orderlies promoted as Junior Pharmacists in other districts, i.e., notionally w.e.f., 31.12.2014 and monetarily w.e.f., 01.02.2018 on the same analogy and by adopting the same parameters which were adopted by the respondents while making promotion in other districts, with all consequential benefits and decide it, as per relevant rules, regulations and instructions on the subject, by passing a reasoned and speaking order within a period of four weeks from the date of receipt of a certified copy of this order. A copy of speaking order be communicated to the applicant within one week thereafter.

7. With the above direction, the O.A. stands disposed of. No costs.

(Suresh Kumar Batra)
Member (J)

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