

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22304 of 2018

1. The Union Of India through the Secretary, Ministry of AYUSH, Government of India, AYUSH Bhawan, B- Block, GPO Complex, INA, New Delhi-110023
2. The Director General, Central Council for Research in Unani Medical C.C.R.U.M., under Ministry of AYUSH, Government of India, JLNBCCHA Bhawan, 61-65, Institutional Area, Opposite D-Block, Janakpur, New Delhi-110058.
3. The Deputy Director, Regional Research Institute of Unani Medicine under Central Council for Research in Unani Medicine, (CCRUM), Guzri Bazar, Patna City, Patna, Bihar-800008.
4. The Assistant Director (Admn) Office of the Director General, Central Council for Research in Unani Medicine (CCRUM) Ministry of AYUSH, Government of India, JLNBCCHA Bhawan, 61-65, Institutional Area, Opposite D-Block, Janakpur, New Delhi-110058.
5. The Administrative Officer, Central Council of Research in Unani Medicine (CCRUM) Ministry of AYUSH, Government of India, JLNBCCHA Bhawan, 61-65, Institutional Area, Opposite D-Block, Janakpur, New Delhi-110058.

... .. Petitioner/s

Versus

Hakim (Mrs.) Najmus Sehar Wife of Sri Azam Siddiqui, Research Officer Unani, SL-III, Regional Research Institute of Unani Medicine, under Central Council for Research in Unani Medicine, (CCRUM), Guzri Bazar, Patna City, Patna, Bihar-800008.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Sujeet Kumar Sinha, Advocate
For the Respondent/s	:	Mr. Munna Pd Dixit, Advocate
		Mr. S. K. Dixit, Advocate
		Mr. S. K. Choubey, Advocate
		Ms. Swastika, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 04-02-2023

The instant writ petition is filed by the Union of India-
Department. They are aggrieved by the order of the Central



Administrative Tribunal, Patna Bench, Patna (for short 'CAT') dated 28.03.2018 passed in O.A./050/00817/2016. Respondent was denied benefit of pension under Old Pension Scheme, therefore, she has invoked remedy before the CAT. The CAT allowed her O.A. in her favour, stating that respondent is entitled to Old Pension Scheme and not New Pension Scheme in the light of the various factual aspects of the matter.

02. We have perused the advertisement dated 02.03.1996 to the post of Assistant Research Officer (Unani). In the advertisement, 07 posts were advertised. Among 07 posts, 02 posts were reserved for SC, 02 posts were reserved for ST and 03 posts were earmarked for unreserved category. Pay scale of the post of Assistant Research Officer (Unani) has been shown at Rs. 2000-3500/-. Pursuant to the aforesaid advertisement, Respondent was selected and appointed on 19.11.1996 vide Office Order No. 112 /1996 dated 19.12.1996, which reads as under:-

“On the recommendations of the Selection Committee Director, Central Council for Research in Unani Medicine New Delhi, is pleased to appoint Hakim Miss. Nejums Sehar as Assistant Research Officer (Unani) in the pay scale of Rs. 2000-60-2300-EB-75-3200-100-3500 w.e.f. 26.7.96 (F.N.) against the reserved post on purely adhoc basis till further order in Regional Research Institute of Unani Medicine, Pata or till a regularly selected candidate joins the post, whichever is earlier.

She will draw an initial pay @ Rs.



2000/-p.m. + N.P.A. in the scale of Rs. 2000-60-2300-EB-75-3200-100-3500 with usual allowance as admissible under the rules.

Hakim Miss. Nejums Sehar has medically been examined by the Standing Medical Board, Patna and found fit.

*Sd/-
(Athar Ali)
Administrative Officer
For Director*

To,

1. Hkm. Mrs. Nejums Sehar, ARO (U), RRIUM, Patna.

2. The Officer Incharge, RRIUM, Patna.

3. The Accounts Officer, CCRUM, New Delhi.

4. P.A. to Director.

5. Service Book (Maintained in the Institute).

6. Office order file.”

03. Perusal of the aforesaid order of appointment, it is crystal clear that Respondent was appointed against regular post as she had been extended pay scale attached to the post of Assistant Research Officer (Unani) at Rs. 2000-3500/- with effect from 26.07.1996. Thereafter, one of the respondent passed order on 28.12.2004, as if petitioner was appointed on *Ad-hoc* basis and her services has been regularized with effect from 03.02.2004, ignoring the fact that respondent was selected and appointed by virtue of advertisement issued on 02.03.1996 and she was appointed on 19.11.1996. It is to be noted that advertisement or appointment does not stipulate that selection and appointment to the post of Assistant Research Officer (Unani) is on *Ad-hoc* basis,



so as to regularize the services of the Respondent on 28.12.2004, with reference to her initial appointment on 19.11.1996. At this stage, it is to be noted that Respondent had been extended not only pay scale but she has also been extended increment from time to time till date. In the light of these facts and circumstances, the contention of the petitioner cannot be appreciated that respondent was appointed on *Ad-hoc* basis and her services was regularized vide order dated 28.12.2004 with effect from 03.02.2004, therefore, she is not entitled to pensionary benefit with reference to Old Pension Scheme and she is entitled to New Pension Scheme.

04. Accordingly, writ petition filed by the Union of India-Department is hereby rejected while affirming the order of the CAT dated 28.03.2018 passed in O.A./050/00817/2016.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Ashish/Daya/-

AFR/NAFR	
CAV DATE	NA
Uploading Date	09.02.2023
Transmission Date	

