

**Govt. of India**  
**National Commission for Minorities**  
Lok Nayak Bhawan, Khan Market, New Delhi-3

**Petitioner:** Dr. Syed Ahmed, Medical Officer (Unani) CGHS Dispensary, Darya Ganj, New Delhi

**Respondent:** Department of AYUSH, Ministry of Health & Family Welfare, Govt. of India, New Delhi.

**File No. M/DL/26/24/08-NCM**

**The Bench of the NCM meeting on 18.07.2011 consisted of:**

- i. Shri Wajahat Habibullah, Chairperson
  - ii. Smt. Syeda Imam, Member
2. Joint Secretary and Legal Officer assisted the bench.

**Brief record of hearing held in the Conference Room of the National Commission for Minorities held at 04.00 P.M. on 18.07.2011.**

**Present:**

1. Dr. Syed Ahmed, Medical Officer (Unani) along with Shri T.D. Yadav, Legal Assistant
2. Shri Anil Kumar, Secretary (AYUSH) along with Shri D.D. Sharma, Joint Secretary, AYUSH
3. Shri L.C. Goyal, Addl. Secretary & D.G.(CGHS)(Department of Health and family Welfare

3. Summons had been issued to Secretary, Department of AYUSH, Secretary, Department of Health, Addl. Secretary & DG, CGHS and Director General, DGHS. Shri R.K. Srivastava, DG, DGHS vide letter dt. 15.07.2011 requested exemption from personal appearance *inter alia* stating that he is not dealing with matters of CGHS. The Chairman, NCM granted him exemption from personal appearance. Secretary, Department of Health and Family Welfare vide letter dated 18.07.2011 informed the Commission that as the matter of Dr. Syed Ahmad pertains to Department of AYUSH the letter dated 14.7.2011 of the NCM is forwarded to Secretary, D/o AYUSH to represent the case.

4. Shri Anil Kumar Secretary, Department of AYUSH submitted that in view of the recommendation of the Commission in the hearing dated **27.08.2010** for grant of promotion to the petitioner in view of the stagnation and lack of promotional avenues matter was considered by the department. Dr. Ahmad was promoted as Senior Medical Officer with effect from 20.01.2004 on completion of 4 years of his service from the date of his regularization. However, Dr. Ahmad did not join as Sr. Medical Officer on his promotion and the matter was taken up with the DOP&T for clarification that in the event of non acceptance of promotion would it be fit to grant promotion to Dr. Syed Ahmad w.e.f. 20.1.2004 with consequential benefits. The DOP&T questioned how Dr. Ahmad has been working on the same post after promotion on 20.1.'04 and what action has been taken against him for refusal of promotion. As per Government rules if an employee does not accept his promotion he may give a written request and the request will be considered by the Appointing Authority. In case the reason stated in the request is not accepted by the Appointing Authority, the Government enforces promotion on the officer; if the officer still refuses disciplinary action can be taken against him. DoPT 's instructions were therefore clear and it was for the Department to take further action.

5. Elaborating on the dual control of Unani doctors Secretary submitted that although the Department of AYUSH appointed the Doctors they were transferred to Ministry of Health, which is their controlling authority for postings, and day to day personnel matters. The Secretary further submitted that as soon as the CGHS, in the M/o Health made available the service record pertaining to the appointments, action would be initiated.

5. Responding to the submission of Secretary, AYUSH, Dr. Syed Ahmad submitted that he has not received any order of promotion from the Department and since 1987 till date, he has been working as Medical Officer. He further questioned that as he has been agitating for promotion there is no reason why he will not accept the same when he is promoted.

6. Shri Anil Kumar submitted that it is beyond his imagination how an officer would not keep track of his promotion when it is due to him. Promotion is a major event in the career of a government officer and it would not be possible for him to believe that Dr. Ahmad was not aware of his promotion. He further submitted that Dr. Ahmad was promoted along with other medical officers vide a combined order dated 04.07.2005 and all the others had joined the promotional post. A copy of this order was displayed

7. Shri L.C. Goyal, Addl. Secretary and Director General had brought the service record of Dr. Syed Ahmad and submitted that on perusal of the record the order dated 4.7.2005 with regard to promotion of Dr. Ahmad is not available in his service book and no corresponding entry in the service book was also made. He further submitted that the service record to the extent available with CGHS will be sent to the D/o AYUSH under whose administrative control Dr. Ahmad's case falls.

**Discussion:**

8. The Commission after hearing the parties and perusing the records produced by the Addl. Secretary found that the records did not have any entry of Dr. Ahmad's promotion. It could not be established that the order of promotion of Dr. Ahmad was ever served on the petitioner and if served, why the entry is not available. Dr. Ahmad also agreed that although his initial request had indeed been for regularization of his services w.e.f 1.1.'87, he would be satisfied with a promotion for which he has received no orders.

**Decision notice:**

9. The Commission recommended that the Department of Health and Family Welfare will file the records within a week pertaining to the promotion of Dr. Ahmad and to determine whether the order of promotion dated 4.7.2005 was served on the petitioner, and if not established to proceed with his promotion as due.

Sd/-  
(Wajahat Habibullah)  
Chairperson

Sd/-  
(Syeda Imam)  
Member