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Central Administrative Tribunal, Principal Bench

Original Application No.2231 of 2002

New Delhi, this the 20th day of May, 2003

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. Govindan S. Tampi, Member(A)

Shri Hari Saran
S/o Shri Umrao Singh
Aged about 36 years
R/o B-72, Guru Teg Bahadur Campus Hospital,
Shahdara, Delhi

.... Applicant

(By Advocate: Shri T.D. Yadav)

Versus

1. Govt. of NCT of Delhi through
Principal Secretary (Health & Family Welfare)
Delhi Sachivalaya,
I.P. Estate,
New Delhi-2
2. Additional Secretary,
Govt. of NCT of Delhi
Department of Health and
Family Welfare,
Technical Recruitment Cell,
Delhi Secretariat,
I.P. Estate,
New Delhi-2
3. The Medical Supdt.,
Guru Teg Bahadur Hospital,
Shahdara, Delhi

.... Respondents

(By Advocate: Shri Vijay Pandita)

O R D E R (ORAL)

By Justice V.S. Aggarwal, Chairman

Applicant Hari Saran had joined as Junior Radiographer. He was placed under suspension under sub-Rule (1) of Rule 10 of Central Civil Service (Classification, Control and Appeal) Rules, 1965. A chargesheet was issued to him on 6.5.98 under Rule 14 of the Rules referred to above. He was subsequently informed that the disciplinary authority proposes to impose a penalty of removal from service with a future ban on any Government appointment. Ultimately he was removed from service. Against the said order, he preferred an appeal.

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The same was disposed of as under:

"As found from the Inquiry Report and the other records placed before me, I find that at no time has Sh. Hari Sharan made false statement regarding his actual qualification at the time of recruitment. Further, he has taken due permission for appearing in the examination of High School with Science which was allowed by the Department. His subsequent passing and placement of his mark-sheet copy on the service book is also within the knowledge of the government.

I am satisfied that the government servant has not furnished false information or produced any false certificate in order to secure the appointment.

The fault for this squarely lies with the members of the team who were responsible for scrutiny for his eligibility prior to his being appointed.

Shri Hari Sharan cannot be held primarily responsible for being under qualified at the time of initial appointment and has taken the effort to obtain the High School Certificate with Science, he should be given another opportunity for obtaining a recognised certificate/diploma from a recognised institution. He may be granted suitable time for obtaining this diploma/certificate, say, at least 2 years, from a recognised institution. Period of service from 16.10.89 be treated as adhoc till such time that he obtains a regular certificate/diploma."

2. By virtue of the present application, the applicant seeks setting aside of the order dated 30.7.2002 whereby after the decision of the appeal, he has been taken on the strength of the hospital as Junior Radiographer with the direction that he should obtain a diploma certificate from a recognised Institute and till then, he has to be treated as an ad-hoc employee. He is also seeking quashing of the order of 18.3.2002 purported to have been passed by the appellate authority whereby he has given an opportunity for obtaining a certificate/diploma from a recognised institution. According to the applicant, he had regularly been appointed and is entitled to be reinstated on regular

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basis.

3. The application has been opposed and it has been pointed that the appointment cannot be effected as against the recruitment rules. The diploma produced by the applicant in Radiography is not from a recognised institution and unless the applicant, in terms of the order so passed obtains the diploma from a recognised institution, he cannot be considered for regular appointment.

4. After hearing the parties counsel, we are of the considered opinion that the present application is without any merit. The recruitment rules for the post of Radiographer have been placed on the record. The educational qualifications for the same are:

1. Matriculation or Higher Secondary or Senior Secondary (10+2) with Science.
2. Certificate (2 years' course) in Radiography or Diploma (2 years' course) in Radiography or B.Sc. (Radiography) or Radiological Technology (2 years)."

Perusal of the same clearly show that a concerned person must have a certificate in Radiography or diploma in Radiography or B.Sc. (Radiography).

5. The applicant's learned counsel contended that applicant has such a diploma from an Institute of Kerala and according to him, there is no provision in the recruitment rules that the diploma should be from a recognised institution. He further urged that in fact

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there is no recognised institution in Delhi.

6. On both the counts, the argument advanced must be rejected. Whenever the recruitment rules prescribe that a person should have a diploma or a degree, necessarily by implication it implies that it must be from a recognised institution. In fact the learned counsel for the respondents made available the letter written by the Additional Medical Superintendent to indicate that in Delhi itself, the institutions which are recognised and are conducting diploma in Radiography are Lok Nayak Jai Prakash Narain Hospital and University College of Medical Sciences and G.T.B. Hospital, Delhi. In face of the aforesaid, the pleas so much thought of necessarily have to be repelled.

7. Once the recruitment rules prescribe that a person should have a diploma from the recognised institution, necessarily till such time the applicant obtains such a diploma, he cannot be appointed de-hors the rules.

8. In fact in the departmental appeal that the applicant had preferred, though it was held that he had given the correct particulars but still the appellate authority, conscious of the fact that applicant must fulfil the educational qualifications, had granted him an opportunity to obtain a recognised certificate/diploma from a recognised institution. Two years time was granted and that till such time, he was to be treated as ad-hoc. The

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applicant seeks quashing of this part of the order.

9. The contention so raised is totally devoid of any merit. We have already noted above that the diploma must be from a recognised institution and if it is not so, the applicant could not be appointed on regular basis. It is this reason which prevailed with the appellate authority to permit the applicant to continue for two years on ad-hoc basis. Thus there is no ground to quash that part of the order also.

10. No other argument has been advanced.

11. For these reasons, the application being without merit must fail and is dismissed.

Announced.

(Govindan S. Tampi)

Member (A)

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(V.S. Aggarwal)

Chairman