

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.2653 OF 2002

VA

New Delhi, this the 29th day of July, 2003

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE SHRI S.K. NAIK, MEMBER (A)

1. Shri S.Gogia
S/o Shri R.C.Gogia
R/o B-4/163, Safdarjung Enclave
New Delhi-110 029.
2. Shri S.K.Maggoo
S/o Late Shri Kanshi Ram Maggoo
R/o K-12-C, Sheikh Sarai
Phase-II, New Delhi.
3. Ms. Veena Singh
Presently working as Lecturer
on ad hoc basis at
Meerabai Polytechnic
Maharani Bagh
New Delhi-110 065.Applicants

(By Advocate : Shri S.K.Gupta)

Versus

1. Govt.of NCT of Delhi
Through Chief Secretary
Delhi Secretariat
IP Estate, IG Stadium
Delhi-110 002.
2. Principal Secretary-cum-Director
Department of Training and
Technical Education
(Technical Education)
Muni Maya Ram Marg
Near T.V. Tower
Pitamura, New Delhi.
3. Secretary
Union Public Service Commission
Dholpur House
Shahjahan Road
New Delhi. Respondents

(By Mrs. Sumedha Sharma & Shri V.S.R.Krishna, Advocates)

ORDER

JUSTICE V.S. AGGARWAL

The applicants are seeking a direction to

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consider their case for absorption/regularisation on the posts of Lecturer from the dates the vacancies arose and further to extend the benefit of Career Advancement Scheme in placing them in the senior scale from the due date.

2. With a view to re-structuring the entire cadre in the Training and Technical Education in the Government of National Capital Territory of Delhi, a committee known as Madan Committee had been constituted. The said Committee had made its recommendations which were implemented by the Government of India vide the letter of 25.9.1987. It was mentioned that the existing staff which would be declared surplus by virtue of the implementation of the recommendations of the Madan Committee may be absorbed in the revised structure provided they fulfil the requisite qualifications. It is contended that one time relaxation was given to those who did not have the requisite qualifications with a direction that they would be sent for this purpose to an appropriate institution. According to the applicants, they had joined the respondents on different dates. The applicant No.1 joined the office of the respondents as Drawing Instructor in the year 1967. He acquired the training of diploma in technical teaching in the years 1979-81. The applicant No.2 joined the office of the respondents as Demonstrator

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in Civil Engineering in 1968. He acquired the qualification of diploma in technical teaching in 1972-74. Applicant No.3 joined the office of the respondents as Demonstrator in 1977 and with effect from 30.6.1992, he is performing the duties of Lecturer on ad hoc basis.

3. Applicants contended that it was incumbent upon the respondents to absorb them on the posts of Lecturer on the basis of one time relaxation as given by the Government of India or to consider their cases for regularisation in consultation with the office of respondent No.3. It has not been so done. Their cases were sent to the Union Public Service Commission for regularisation but were returned on the ground that the applicants are not having the requisite qualifications. They contended that in terms of the Madan Committee's recommendations and the one time relaxation that had been awarded, they are entitled to regularisation and on these facts, the abovesaid reliefs are being claimed.

4. Earlier, the applicants had preferred OA No. 1856/2002. This Tribunal on 18.7.2002 had disposed of the same with a direction to respondents 1 and 2 to consider the representation of the applicants. Since pertaining to the present controversy, the representation had been rejected, therefore, the present application.

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5. In the reply filed by respondent No. 3, the contest has been offered asserting that a proposal for assessing the suitability of the regular holders of the post of Junior Lecturer for appointment to the upgraded post of Lecturer was received in the office of the Union Public Service Commission on 30.7.1990. Keeping in view the rule position and regulations and the fact that no relaxation had been given with respect to minimum qualifications, the Union Public Service Commission decided not to allow regularisation against the rules. Merely because the applicants were holding the posts for long time will not confer any right on them to seek regularisation.

6. In identical terms, the respondents 1 and 2 contested the application and denied the claim of the applicants. It is pointed that since the applicants did not possess the qualifications consisting of a Bachelor's Degree in Engineering in the relevant subject, they were not upgraded to the posts of Lecturer.

7. In pursuance of the Madan Committee recommendations, the relaxation that was given reads:-

"SUB: Implementation of Madan Committee-TTI qualification for the post of Lecturer in Polytechnics.

Sir,

I am directed to refer to your D.D.No.F.127/15/78-TE/AD/1714 dated 30 Jan, 1989 addressed to Prof. Ashoka Chandra, Educational Adviser (T) regarding the subject cited above and

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to convey the approval of Government of India to grant one time relaxation on the prescribed qualification of notified recruitment rules permitting to upgrade/absorb those teachers in Polytechnics to the post of Lecturers who possesses the alternative qualification already approved by All India Council for Technical Education i.e. Diploma in Appropriate Branch of Engineering plus Technical Teachers Training Institute and five years Teaching/Profession Experience.

(Such a relaxation will only be for absorption to the post of Lecturer and the incumbents will not be entitled for any further promotion until he/she acquires requisite qualification of the notified recruitment rules).

This issues with the approval of Education Secretary. The issue of re-starting the TTTI Chandigarh shall be considered separately on its merit."

After the same had been so issued on 6.6.1989, an order had been issued pertaining to the applicants and others which reads:-

"In pursuance of the sanction of Govt. of India regarding re-organisation of the Staffing Pattern in Boy's and Women's Polytechnic under the Directorate of Technical Education, Delhi Administration, New Delhi on the recommendation of Madan Committee as conveyed vide Ministry of Human Resources Development (Department of Education) Letter No.F.1-27/81/T.2/T.10/Part File dated 25.9.87, No.F.1-27/81/T.10 (Part File-II) dated 10.11.1988 and No.F.1/32/88/T.10 dated 7.3.1989, the Administrator, Delhi, is pleased to appoint the undermentioned Junior Lecturers/ Demonstrators Drawing Instructor/ Draughtsman/ Studio Assistant to the upgraded post of Lecturer on adhoc basis in the scale of pay of Rs.2200-75-2800-EB-100-4000 with immediate effect. The officials possessing diploma in Engineering plus T.T.T.I. Diploma are appointed to the post of Lecturer as a one time relaxation in the prescribed qualification and these incumbents will not be entitled for any further promotion until he/she acquires requisite qualification of notified recruitment rules..... Formal appointment orders on regular basis will be issued only after the approval of Union Public Service Commission is received.

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The above adhoc appointment will not confer upon the Officers concerned to claim seniority etc. on the said post or any other equivalent post."

The learned counsel for the applicants had vehemently contended that the applicants had been absorbed in pursuance of the relaxation and the order that had been so... passed and, therefore, the impugned order rejecting the claim of the applicants necessarily is without any basis.

8. We have carefully gone through the said documents and find that the argument floated must be rejected. So far as relaxation of 7.3.1989 is concerned, it was subject to the following terms:-

(a) it was one time relaxation;

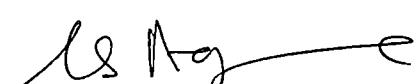
(b) it was with respect to the qualifications of the notified recruitment rules;

(c) it would be applicable to those teachers who possessed the alternative qualifications but they can only be upgraded or absorbed; and

(d) the course should be approved by the All India Council for Technical Education.

(emphasis supplied by us)

As already pointed above, the relaxation was either to



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absorb or upgrade. They are two different expressions. Upgradation will not be absorption. The order that was passed which is being relied upon dated 6.6.1989, reproduced above, clearly shows that the concerned persons including the applicants were upgraded rather than absorbed. Upgradation may confer a right to draw the salary of higher post rather than permanent absorption. That is why in the order referred to above, it was clearly mentioned that the appointment on regular basis would be only made after approval of the Union Public Service Commission. In that back-drop, to state that the applicants, in fact, have been absorbed would be incorrect.

9. In face of the abovesaid finding, ^{impugned} expression used in the order that the applicants had been absorbed is clearly a loose expression.

10. Confronted with that position, the learned counsel for the applicants had drawn our attention to a decision of the Supreme Court in the case of **State of U.P. & Ors. v. Dr. Deep Narain Tripathi & Ors.**, JT 1996 (4) S.C. 320. Therein the preliminary objection raised before the court was that as the Uttar Pradesh Higher Education Services Commission Act had come into force, no ad hoc appointments could have been made. The Supreme Court held that once there was a provision for relaxation of any qualification and the power under the said

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provision had been exercised, it was no more open to the selection committee to say that there was no provision for relaxation.

11. It is obvious from the aforesaid that the facts of the cited case are different. Here the regulations and the facts indicate that it was only upgradation rather than absorption on relaxation. The decision rendered in the case of Dr. Deep Narain Tripathi (supra) will not help the applicants.

12. Reliance was further placed on a decision of the Supreme Court in the case **J.C. Yadav & Ors. v. State of Haryana & Ors.**, JT 1990 (1) S.C. 278 wherein it was held that the expression "in any particular case" occurring in Rule 22 of the Haryana Service of Engineers Class I PWD (Public Health Branch) Rules, 1961 must receive liberal construction. The decision herein once again is not identical to the facts in the case of J.C. Yadav. The words used are specific and there was no absorption of the applicants. The relaxation would, therefore, only be for the purposes of upgradation. There was no relaxation with respect to the educational qualifications. The applicants as per the recruitment rules for the posts admittedly did not possess the requisite educational qualifications and, therefore, their claim had rightly been rejected.

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13. For these reasons, the application being without merit must fail and is accordingly dismissed. No costs.

SKN
(S.K. NAIK)
MEMBER (A)

VSA
(V.S. AGGARWAL)
CHAIRMAN

/sns/