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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.604/2002

New Delhi, this 25th day of November, 2002

Hon'ble Shri Govindan S. Tampi, Member(A)
Hon'ble Shri Shanker Raju, Member(J)

Dr. (Mrs.) Triipta Goel
Asstt. Prof. Deptt. of Civil Engg.
Regional Engg. College
Hamirpur(HP)-177005 .. Applicant

(Shri Pradeep Gupta, Advocate)

versus

1. Secretary
Union Public Service Commission
Shahjahan Road, New Delhi
2. Home Secretary, UT Sectt
Chandigarh Admn. S-9, Chandigarh
3. Principal
Punjab Engg. College
S-12, Chandigarh
4. Ms. Meena Aggarwal
House No.611, Type IV
PECCampus, S-12, Chandigarh .. Respondents

(Shri Rajinder Nischal, Advocate)

ORDER(oral)

Shri Shanker Raju, Member(J)

Applicant's challenge in the present OA is to the order dated 10.12.2001 by which Respondent No.4 (Ms. Meena Aggarwal) has been given the offer of appointment to the post of Assistant Professor (AF) in Civil Engineering (Highways Engg.) in Punjab Engineering College. She has also sought a direction to the respondents to re-advertise the said post mentioning the minimum qualification prescribed as Ph.D and make fresh selection on the basis of the said qualification.

2. Briefly stated, in response to UPSC's advertisement No.11/98, applicant applied for the post of AF(CE) in the prescribed form on 29.6.98. When the applicant did not

receive any letter from UPSC calling for interview, while letters for interview to be held on 19.10.2001 had already been issued to other candidates, she made a representation to UPSC on 6.10.2001. Thereafter she filed OA 2817/2001 which was disposed of by this Tribunal vide its order dated 15.10.2001 directing UPSC to consider applicant's claim and to interview her. She appeared for the interview on 19.10.2001. On the recommendations of UPSC published in Employment News dated 22-28.12.2001, Respondent No.4 has been issued with the offer of appointment to the post in question vide impugned order dated 10.12.2001. It was clarified in the said offer dated 10.12.2001 that "the offer is subject to the decision of the OA No.2817/2001 filed by Dr. (Mrs. Tripta Goyal in Hon'ble CAT Principal Bench, New Delhi vide order dated 15.10.2001". The grievance of the applicant is R-4 is less qualified than her and ineligible for the said post and therefore respondents should have re-advertised the post prescribing minimum qualification as Ph.D. for the post. That is how the applicant is before us seeking the aforesaid reliefs.

3. Respondents have contested the case and have stated in their reply that UPSC is a constitutional body under Article 315 of the Constitution entrusted with the duty of making recruitment to civil services and post under the Union of India. It has been vested with the powers to devise its own procedures objectively and in a just

✓ manner. As per procedure followed in the Commission, reasonable classification of the various applicants on the basis of their qualification and experience is resorted to with a view to shortlist candidates for the vacancies and these powers have been upheld by the apex court. On receipt of a requisition from the indenting department, the Commission set in motion the process of recruitment, which is to be strictly in conformity with the notified Recruitment Rules. As per the procedure followed by the Commission, the posts are advertised inviting applications from eligible candidates who are further classified in the Commission by adopting a fair and rational procedure to shortlist the candidates who have applied.

4. It is further stated by the respondents that in pursuance of Tribunal's interim order dated 15.10.2001 in OA 2817/2001, the applicant has been interviewed by the Commission on 19.10.2001. Applicant filed amended OA 2817/2001 challenging the essential qualification proscribed in the R/Rules for the post in question, which was withdrawn by her. She has now filed the present OA challenging the R/Rules for the post as also the eligibility of R-4 and the recommendations of UPSC recommending R-4 for the post. Respondents would further contend that R-4 who was recommended by UPSC possesses 1st Class Master's Engineering (Highway Engg.) Degree and 14 years experience as lecturer in Civil Engineering. They have denied applicant's contention that Ph.D is the

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minimum qualification for the post of AF as prescribed by AICTE, as the post was advertised by UPSC on 13.6.1998 in accordance with the notified R/Rules existing at that time, while recommendation of AICTE is dated 15.3.2000. Also this Tribunal, in its interim order dated 15.10.2001 in OA 2817/2001 did not put any bar on the declaration of the result and appointment of candidates so recommended by the Commission. In view of this position, the present OA is not maintainable and be dismissed.

5. Replies have also been filed on behalf of Respondents No.2 & 3 and also Respondent No.4 almost on the same lines as that of R-1 contesting the OA.

6. We have heard the learned counsel for the parties and considered the pleadings.

7. It is settled legal position that the Tribunal cannot substitute itself in place of the selection committee and make selection as if the Tribunal itself was exercising the powers of selection committee. Also whether a candidate fulfils the requisite qualifications or not is a matter which should be entirely left to be decided by the academic bodies and the concerned selection committee which invariably consists of experts on the subject relevant to the selection. Decisions of the academic authorities should not ordinarily be interfered with by the Tribunal. It is admitted position that the applicant was called for interview by UPSC in terms of the

directions of this Tribunal but she was not recommended and the UPSC had recommended the best of the lot, who has since been issued the offer of appointment. That apart, this Tribunal in its interim order dated 15.10.2001 in OA 2817/2001 did not put any bar on the declaration of the result and appointment of candidates so recommended by the Commission. It is also a settled position that this Tribunal cannot give any direction to the respondents to amend or frame R/Rules for any post as it is for the executive to take a decision as R/Rules are always framed under Article 309 of the Constitution of India in consultation with various Ministries/department and keeping in view various factors.

8. In view of what has been discussed above, we find no merit in the present OA and the same is accordingly dismissed. No costs.

S. Raju
(Shanker Raju)
Member(J)

(Govindan S. Tammi)
Member(A)

/gtv/

fresh M.A. for already named
counsel for R243.