



**Central Administrative Tribunal
Principal Bench**

OA No.1377/2015

New Delhi, this the 14th day of November, 2019

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

1. Dr. Amar Bodhi
Aged 43 years,
Designation : Lecturer
S/o Shri Rajasekharan Nair
Allahabad Bank Apartment,
New Delhi.
2. Dr. U Rajeev Nair
Aged about 42 years,
Designation: Lecturer
S/o Late A. K. Unnikrishnan Nair
Address-B-2002, Ajnara Gen-"X",
Crossing Republic
Ghaziabad, Uttar Pradesh-201009.
3. Dr. Sandhya Rastogi
Designation : Lecturer
W/o Dr. Navneet Rastogi
D/o Nandkumar Agarwal
Aged about 40 years,
Address-C1/712, May Fair Tower
Charmwood Village, Surajkund,
Faridabad 121, Haryana.
4. Dr. Shib Narayan
Designation : Lecturer
S/o Late Dr. Bankim Chandra Jana
Aged about 44 years,
B-5, 2nd Floor, Sector-23,
Noida 201301, Uttar Pradesh. ... Applicants.

(By Advocate : Mr. Manoj V. George with Ms. Shilpa Liza George and Mr. Vignesh Ram)

Versus



1. The Principal Secretary
(Department of Health and Family Welfare)
Government of NCT of Delhi
9th Level, A Wing,
Delhi Secretariat,
New Delhi.
 2. Union of India
Through its Secretary
Department of Ayurveda, Yoga, Unani, Sidha and
Homeopathy (AYUSH)
Ministry of Health and Family Welfare
IRCS Building,
New Delhi.
- ... Respondents.

(By Advocate : Shri Amit Yadav for Shri Ankur Chhibber)

: O R D E R :

Justice L. Narasimha Reddy, Chairman:

Applicants 1, 3 & 4 were selected and appointed as Medical Officers (Homeopathy) in the Delhi Administration, whereas the 2nd applicant was appointed as Medical Officer (Homeopathy) in Dadra & Nagar Haveli Administration. An advertisement was issued for appointment to the post of Lecturers in Homeopathy in the year 2007. The applicants responded to the same and were selected and appointed as Lecturers in Homeopathy.

2. It is stated that while the post graduation in Homeopathy, is an essential qualification for appointment to the post of Lecturers (Homeopathy), the candidates without such qualification also can be selected and appointed as Medical Officers (Homeopathy).



3. It is further stated that the Delhi Administration initiated a proposal for extension of the benefit of Senior Time Scale (STS) to the Lecturers in Homeopathy on completion of three years of service, and to the Medical Officers (Teaching) on completion of six years of service. The applicants contend that even while the Cabinet Note was in the process, the 1st respondent framed "Delhi Health Service (Teaching Cadre of Homeopathy) Rules, 2012, (Service Rules) and the distinction between Medical Officers (Teaching) and Lecturers in Homeopathy was wiped away, and as per Schedule-3 thereof, both the categories are made eligible to be promoted to the post of Reader on completion of six years of service in the grade of Lecturer.

4. The applicants contend that the Rules framed by the respondents give rise to treating of unequals as equals. According to them, the Medical Officer (Teaching) was treated as a separate category in view of the fact that the post graduation was not a qualification stipulated for that post, and it ought not to have been equated to the Lecturers in Homeopathy. In this OA, they pray for a direction to the respondents to consider them for promotion to STS on completion of three years of service as Lecturer, and to extend the benefit of Grade Pay of Rs.6600/- on par



with the Readers in modern medicine system from the date of their appointment.

5. The respondents filed counter affidavit opposing the OA. It is stated that the service of the applicants is governed by the recruitment rules framed by the Delhi Administration and the applicants cannot claim any relief not provided for under the Rules. It is also stated that various claims made by the applicants are imaginary and the Rules were framed after undertaking a prolonged exercise of consultation.

6. We heard Shri Manoj V. George with Ms. Shilpa Liza George and Shri Vignesh Ram, learned counsel for the applicant and Shri Amit Yadav for Shri Ankur Chibber, learned counsel for the respondents.

7. The applicants were initially appointed as Medical Officers (Homeopathy). While they were working in that post, the UPSC issued an advertisement for the post of Lecturers in Homeopathy. The applicants were selected and appointed as Lecturers in Homeopathy. Their plea is that they ought to have been extended the benefit of STS on completion of 3 years of service. The reason pleaded by them is that there existed a Cabinet Note to the effect that the Lecturers in Homeopathy with post graduation degree were to be extended the benefit of STS on completion of 3



years and Medical Officers, on completion of 6 years, and contrary to that the Rules were brought into existence. The prayer in the OA read as under:-

- a. Order the Respondent No.1 to consider the promotion of the Applicants on completion of 3 years of service as Lecturers with PG qualifications to the next higher post;
- b. Order the Respondents to grant parity of grade pay of Rs.6600/- to the Applicants to that of the similarly placed personnel in teaching cadre in modern medicine system since the date of appointment;
- c. Order the Respondent to pay arrears of the Grade Pay w.e.f. the date of appointment with interest of 18% per annum;
- d. Any other order or direction that this Hon'ble Court deems fit in the interest of justice."

No challenge is made to the Service Rules.

8. It is not the case of the applicants that the Service Rules, and in particular, Schedule-III thereof, is contrary to any specific provision of law. The relevant portion of Schedule-III reads as under:-

S. No.	Name	Method of Recruitment	Field of Selection and the minimum qualifying service for promotion.
4.	Reader (Allied Medical Subjects/ Homeopathy subjects)	100 % by promotion without linkage to vacancies failing which by deputation (ISTC).	Lecturer with (06) years of regular service in the grade.

9. It is important to note that the qualifications for appointment to the post of Lecturer are prescribed under



Schedule-V, and according to that, post graduation in Homeopathy or a Degree in Homeopathy with 4 years of professional experience is essential. Another alternative is, post graduate Medical Degree in the concerned subject recognised by the Medical Council of India with 4 years of official experience, out of which 2 years as Research Medical Officer from an Institute recognised by the Medical Council of India.

10. Once the rule making authority has prescribed the qualifications and method of promotion, the applicants cannot expect a differential treatment for them. Most of the OA is devoted to present a picture as though the Medical Officer (Homeopathy) is inferior and that ought not to have been equated to Lecturer in Homeopathy. In its counter affidavit, the 1st respondent stated that the Central Council of Homeopathy issued a Notification dated 08.03.2013 stipulating the minimum standards and requirements for appointment to various teaching and non teaching posts in Homeopathy and the Service Rules framed by the 1st respondent are in conformity with that.

11. Unless the applicants have challenged the very Service Rules and are successful in such a challenge, they cannot



be granted any relief different from the one provided under the Rules.

12. We do not find any merit in the OA. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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