

**Central Administrative Tribunal
Principal Bench**

OA No.391/2015

New Delhi, this the 11th day of March, 2020



**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

Dr. Anita Yadav, Age 47 years,
D/o Shri R.C. Yadav,
C-701, D-6, Stellar Green Apartment,
Sector 44, NOIDA (U.P.)

...Applicant

(None)

Versus

1. Union of India,
Represented by its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi-110001.
2. Secretary,
Department of Personnel and Training,
Establishment Section,
North Block,
New Delhi.
3. LRS Institute of TB & RD,
Through its Director,
Sri Aurobindo Marg,
Mehrauli
(Near Qutub Minar)
New Delhi-110030.

...Respondents

(By Advocate : Dr. Ch. Shamsuddin Khan
Shri Jasbir Bidhuri with Shri Shashwat
Sharma)

ORDER (ORAL)**Justice L. Narasimha Reddy, Chairman :-**

The applicant was selected and appointed as Assistant Professor in the LRS TB Hospital on 03.05.2008. Thereafter, she was re-designated as Associate Professor. She made a representation to the respondents on 16.06.2014, with a request to grant her a vacation leave, on par with the Associate professors, in the other Medical Colleges. Through a communication dated 23.07.2014, the Ministry informed the applicant that her request cannot be acceded to, in view of the fact that she is not part of any teaching cadre and that there is no teaching activity in the Hospital. Not satisfied with the communication, the applicant filed this OA.

2. She contends that once her appointment was to the post of Assistant Professor, since designated as Associate Professor, the post carries with it, various attributes, such as pay scale, vacation leave, entitlement to participate in the conferences in India and abroad and superannuation age of 65 years. She contends that there was absolutely no basis for the respondents to deny her such benefits. This OA is filed with a prayer to quash the

order dated 23.07.2014 and to extend her the facilities of the pay scale attached to the post of Associate Professor, vacation leave and permission to attend the conferences.



3. Respondents No.1&3 filed separate counter affidavits. According to them, there is no teaching activity in the Institute and the applicant was discharging functions in the field of Ultra Sound and CT Scan. It is also stated that no other employee of the Institution is treated, on par with any Lecturer, in the teaching Institutions, and that the request of the applicant was not acceded to. The further plea of the respondents is that the 3rd respondent is not recognised by the Medical Council of India (MCI) as a teaching institute.

4. The OA was filed in person by the applicant. It has undergone, as many as, 36 adjournments, so far. For the past several occasions, there was no representation for the applicant. Even today, she did not turn up. Since this is one the oldest OAs, we perused the record, as provided under Rule 15 of the CAT (Procedure) Rules, 1987, and heard Dr. Shamsuddin Khan and Shri Jasbir Bidhuri, learned counsel for respondents.



5. The applicant, no doubt, was appointed as Assistant Professor. However, nowhere in the order dated 03.05.2008, it was mentioned that she is assigned any teaching duty. The description of the post is "Assistant Professor (Radiology)". The re-designation of the applicant as Associate Professor was in conformity with the practice, which was prevalent in the various Institutions.

6. Ever since her appointment, the applicant did not avail the facilities mentioned in the OA. It is only on 16.06.2014 that she made a representation with a request to grant her vacation leave. The same was replied through the impugned order. It reads as under:-

"Sub: Grant of vacation leave to Dr. Anita Yadav, Associate Professor, NITRD – reg.

Sir,

I am directed to refer to the note No. NITRD/Dir/2014/2397 dated 16.06.2014 from Director, NITRD.

2. The request of Dr. Anita Yadav, Associate Professor for grant of vacation leave was considered in this Ministry and it was observed as under :

(i) Dr. Anita Yadav was granted the designation of Associate Professor only because her initial appointment was as Assistant Professor.



(ii) There is no other doctor at NITRD with a teaching designation.

(iii) As Assistant Professor she was not getting vacation leave as teaching cadre.

3. In view of above, it has been decided that on Dr. Yadav's being designated as Associate Professor, the policy should not change. The designation of "Associate Professor" will not confer upon her any benefit of teaching cadre/faculty. This may be communicated to Dr. Yadav under intimation to this Ministry.

4. This issues with the approval of Secretary (HFW)."

7. The respondents have also elaborated in the counter affidavit that there is no teaching activity in the hospital, nor it was recognised by the MCI as a teaching Institute. Therefore, the applicant cannot insist on claiming the benefit, attached to a teaching post. Mere nomenclature is not sufficient. The duties attached to the post become material.

8. We do not find any merit in the OA and the same is, accordingly, dismissed.

There shall be no orders as to costs.

(A.K. Bishnoi)
Member (A)
'rk'

(Justice L. Narasimha Reddy)
Chairman