

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.192/2001

New Delhi this the 15th day of April, 2002

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri M.P.Singh, Member (A)

1. Dr. Pravesh Nath Mehra,
BE-75, SFS Janakpuri,
New Delhi-58
2. Dr. Rohit Chopra,
122/E, Sector-18,
Rohini, Delhi-85
3. Dr. Saranjit Singh
C-252 (SFS), Sheikh Sarai-1,
New Delhi.
4. Dr. Kanwarjit Singh
ER-36, Inder Puri, New Delhi
5. Dr. Pankaj Goel
B-187, Ashok Vihar Phase-1
Delhi-52
6. Dr. Sujata Mohanty
1304, Sumeru Apartment
Kaushambi, Ghaziabad
7. Dr. Sanjay Saraf,
L-28/12, DLF City Phase-II,
Gurgaon.

..Applicants

(By Advocate Ms. Rekha Aggarwal)

VERSUS

1. Govt. of National Capital
Territory of Delhi, Health and
Family Welfare Department,
Shamnath Margh, Delhi through
Chief Secretary.
2. Dean, Maulana Azad Medical College,
Bahadur Shah Zafar Marg, New Delhi.
3. Union Public Service Commission
Dholpur House, Shahjahan Road,
New Delhi, through its Secretary.
4. Union of India through Secretary,
Ministry of Health and Family
Welfare, Nirman Bhawan, New Delhi.

..Respondents

(By Advocate Shri Rajan Sharma, learned
counsel through proxy counsel Shri
Ashwini Bhardwaj)

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O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman (J))

(7)

The applicants, seven in number, have challenged the rationality, legality and validity of the advertisement issued by the respondents i.e. UPSC/ Respondent No.3 inviting applications for the post of Assistant Professor of Dentistry in Health and Family Welfare Department, Govt. of NCT of Delhi.

2. The applicants are aggrieved that in the impugned advertisement issued in the Employment News dated 9-15, December, 2000, the respondents have prescribed the qualifications for applying to this post, as five years teaching experience as Lecturer/Senior Resident or equivalent after acquiring Post graduate qualification in Dentistry in a recognised Dental College/Medical College, which according to them, ought to have ^{been 3} only three years teaching experience and not five years. The Tribunal's by order dated 23.1.2001 has directed that pending further orders, appointments, if made pursuant to the impugned advertisement at Annexure A-1, will be subject to further orders to be passed in the present OA.

3. The brief relevant facts of this case are that the applicants are working as Demonstrators in Dentistry and were given offer of appointment in that post on 3.8.1998. The impugned advertisement prescribed the qualifications and experience in terms

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of the Recruitment Rules for the post of Assistant Professor in Dentistry published in 1996. Under Column 8 of this Recruitment Rules, it is provided as follows:-

" 5 years Teaching experience as Lecturer/Sr.Resident or equivalent after acquiring PG qualification in Dentistry in a Recognised Dental College/Medical College".

To this extent, it cannot be said that the advertisement issued by the respondent/UPSC with regard to the recruitment of six Assistant Professors of Dentistry in Health and Family Welfare under the Govt.of NCT of Delhi is contrary to the Rules in prescribing five years teaching experience as Lecturers / Sr.Resident or equivalent after acquiring PG qualification in Dentistry in a recognised Dental College/Medical College.

4. Ms.Rekha Aggarwal, learned counsel has submitted that the pay scale of Demonstrators and that of Lecturers is the same, namely, Rs.8000-13500. Even if that is so, it is relevant to note that teaching experience required for a Lecturer or Sr.Resident is also five years and the contention of the learned counsel for the applicants that the experience of Demonstrators which is at present five years should be reduced to three years cannot be accepted because they are not in any way holding better qualifications, as prescribed under the Rules and the advertisement in question.

5. Shri Ashwini Bhardwaj, learned proxy counsel for



the respondents has also submitted that at the time when the aforesaid advertisement was issued by the respondents, the applicants did not even have the requisite number of three years of experience as the applicants were given offer of appointments only on 3.8.1998, which is also a relevant point. In any case under the Rules five years teaching experience as Lecturer / Sr.Resident or equivalent after acquiring Post Graduate qualification in Dentistry in a recognised Dental College/Medical College is prescribed.

6. Learned counsel for the applicants has very vehemently submitted that the RRs for the post of Assistant Professor in Dentistry framed and published in 1986 were amended in 1996 and is in contravention of the guidelines issued by the Dental Council of India (DCI), wherein they have prescribed only three years experience. This has been controverted by the learned proxy counsel for the respondents who has submitted that DCI has only made recommendations which is for the Government to accept or not. In any case, as mentioned above, for all the categories, five years experiences has been prescribed as the teaching experience for consideration for recruitment to the post of Assistant Professor in Dentistry.

7. Our attention was also drawn to the Delhi Gazette dated 17.6.1980 i.e the Recruitment Rules for the post of Demonstrator in Dentistry which shows that it has been classified as a Group 'C' non- Ministerial, non-Gazetted

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post. Learned counsel for the applicants has, however, submitted at the Bar that this post has now been upgraded to class-I similar to Lecturers in Dentistry. If that was so, we again do not find any arbitrariness or illegality on the face of the Rules to quash and set aside the advertisement or the Rules in question.

8. Learned counsel for the applicants has also drawn our attention to the averments made in Paragraph 5(vi) of the OA that the respondents were probably thinking of amending the Recruitment Rules in 1996 once again, reverting back to the pre-1996 position and prescribe three years teaching experience. These submissions will not assist the applicants because what they themselves have stated is that under the RRs as notified in 1996, for the post of Assistant Professor in Dentistry, five years experience has been prescribed for Lecturers/Sr. Residents or equivalent after acquiring post graduate qualification in Dentistry in a recognised Dental College/Medical College. Therefore, the contention of the learned counsel for the applicants that in the case of Demonstrators their number of years experience should be reduced to three years, does not appear to be either rational or reasonable which justifies any interference in the matter of policy in exercise of our power of judicial review.

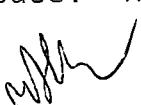
9. Learned counsel for the applicants has submitted that only in the case of respondent No.2/ Maulana Azad Medical College that the Rules are applicable which

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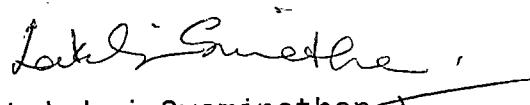


prescribe five years teaching experience whereas in all other places it is three years teaching experience. This again is a matter of policy for the respondents to consider, taking into account the relevant facts and circumstances of each case. It is settled law that in exercise of the power of judicial review a policy decision is not open to be set aside unless it is shown that it is malafide, arbitrary or bereft of any discernible principles. (See the judgement of the Hon'ble Supreme Court in Lift Irrigation Corporation Vs. P.K. Mohanty (1999(1) Scale 399) and Commissioner, Corporation of Madras Vs. Madras Corporation Teachers' Mandram and Others (1997(1)SCC 253))

10. In the result, we find no merit in this OA and it is accordingly dismissed. However, even though we have dismissed the OA, if the respondents wish to re-consider the matter by amending the Recruitment Rules, this judgement shall not come in their way for reconsidering the issues. No order as to costs.



(M.P. Singh)
Member (A)



(Smt. Lakshmi Swaminathan)
Vice Chairman (J)

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