

2

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 761/2001

New Delhi this the 30th day of May, 2001

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)
Hon'ble Shri S.A.T. Rizvi, Member (A)

1. College of Pharmacy Teachers
Association An Association
under CCS(RSA) Rules having its
office at College of Pharmacy,
Pushp Vihar, Sector-III, New Delhi

Through its President Mrs. Sharda Sushil

2. Dr. Anil Kumar Madan
C/O Major J.C. Madan,
A-173, Defence Colony,
New Delhi-24

..Applicants

(By Advocate Ms Jasvinder Kaur)

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1. Lt. Governor, Govt. of NCT
Delhi, Raj Niwas Marg, Delhi.
2. Directorate of Training and
Technical Education, Delhi
Administration through its
Secretary, Dayal Singh Library
Buld. DDU Marg, New Delhi-2
3. Union Public Service Commission,
Shahjahan Road, New Delhi through
its Chairman.
4. All India Council for Technical
Education, Indira Gandhi Sports
Complex, I.P. Estate, New Delhi
through its Secretary.

5. Prof. S.S. Aggarwal,
D-404, Pragati Vihar, New Delhi-3

..Respondents

(By Advocate Mrs. Meera Chhibber)

O R D E R (ORAL)

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

This application was originally filed by one applicant i.e. the College of Pharmacy Teachers Association through the President which has been later shown as having been filed by two applicants, namely, the same College of Pharmacy of Teachers Association

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through its President and applicant No.2- Dr.Anil Kumar Madan against the action of the official respondents in promoting respondent No.5 as Principal of the College by order dated 23.3.2001..

2. During the hearing Miss Jasvinder Kaur, learned counsel for the applicants has submitted that at the time when the OA was filed, they have impugned the proposed action of the respondents to promote Respondent 5 as Principal of the College of Pharmacy (hereinafter referred to 'the College').

3. A preliminary objection has been taken by the respondents that the OA is not maintainable as it is in the nature of a Public Interest Litigation (PIL). They have submitted that none of the persons who have filed this application can be considered as as "aggrieved person" under Section 19 of the Administrative Tribunals Act, 1985. Mrs.Meera Chhibber, learned counsel for the respondents, has pointed out that Mrs Sharda Sushil, who is stated to be the President of the College is only a Lecturer and is not in the feeder category for promotion to the post of Principal of the College as per the provisions of the relevant Recruitment Rules (RRs) - Notification dated 18.7.2000. Learned counsel has submitted that among the members of the association/ applicant No.1, excepting one Dr.D.K.Mazumdar, other persons are only Lecturers and Dr. D.K.Mazumdar himself is only an Assistant Professor and is, therefore, not in the feeder category for promotion to the post of Principal. She has submitted that under clause 12 of the RR's, a Professor of the College with three years

18/3

9

regular service in that grade is eligible for consideration for promotion. Learned counsel has further submitted that respondent 5 has been appointed as Professor in the College on 22.3.1991 and hence, there was nothing wrong in considering him for promotion as Principal of the College. She has submitted that the DPC which had met for this purpose had duly recommended the name of Respondent 5 for promotion to the post of Principal of the College as he fulfilled the required conditions laid down in the RRs.

4. Learned counsel for the respondents has also drawn our attention to the order dated 30.4.1996 in respect of applicant 2-Dr.A.K.Madan In this order, it has been stated "that consequent upon his appointment to the post of Professor in Maharshi Dayanand University, Rohtak and on acceptance of his resignation by the competent authority i.e Lt.Governor of Delhi,Dr A.K.Madan who is presently working as Assistant Professor in the College of Pharmacy stands relieved of his duties in this administration w.e.f. 30.4.1996 (AN)". It is further stated that he shall have no lien on any post under "this administration".i.e Govt.of NCT of Delhi. Learned counsel has submitted that in the light of this order, applicant No.2 also has no locus standi to file this application as he can have no claim for consideration for promotion to the post of Principal of the College in accordance with the RRs. In the facts and circumstances of the case, Mrs.Meera Chhibber,learned counsel has, therefore, submitted that neither any of the members of the College Teachers Association/

18

10

applicant No.1 or applicant No.2 could have filed this OA in accordance with the provisions of the Administrative Tribunals Act, 1985, read with Rule 4 (5)(b) of the Central Administrative Tribunal (Procedure) Rules, 1987. She has submitted that none of the applicants can claim to be aggrieved persons who could have joined in one application, as they have done in the present case. She has also relied on the judgements of the Hon'ble Supreme Court in Dr. Duryodhan Sahu and Ors Vs. Jitendra Kumar Mishra and Ors (1991)(1)AISLJ 205 and Union of India and Ors Vs. N.Y. Apte and Ors (1991)(1)AISLJ 308. She has submitted that the Supreme Court has clearly held that the Tribunal has no jurisdiction to hear PIL cases and as none of the parties before the Tribunal in this case can be considered as and "aggrieved person" under Section 19 of the Administrative Tribunals Act, 1985, the OA may be dismissed.

5. We have heard Ms. Jasvinder Kaur, learned counsel for the applicants with regard to the preliminary objection raised by the respondents. According to her the selection held by the DPC of respondent 5 as Principal of the College is contrary to the RRs. She has submitted that the selection of the Principal is to be done by promotion method and, therefore, more than one person should have been considered by the DPC. She has submitted that this has not been done as there was only one person who qualified and that is respondent No.5, who was himself holding the post of acting Principal for more than five years. According to her, the other method of selection to the post of Principal, namely, either

18.

deputation or direct recruitment should have been followed by the respondents. She has also vehemently submitted that respondent no.5 does not possess the educational qualifications, namely, Ph.D Degree in Pharmacy with Bachelor's or Master's Degree in Pharmacy from a recognised University or equivalent as laid down in the RRs. Learned counsel has also submitted that in spite of the respondents order dated 30.4.1996 with respect to the newly impleaded applicant No.2- Dr.A.K.Madan, she has very vehemently submitted that if the posts had been circulated for deputation or advertised for direct recruit, he should have got a chance to apply for the same, which chance has been denied to him. Hence, she has submitted that he is also an "aggrieved person" like the other members of the Association of the College who are aggrieved that a person like Respondent 5 without proper qualification has been promoted to the post of Principal of the College.

6. We have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

7. One of the main contentions of the applicants in the OA is that respondent no.5 does not possess the qualifications laid down for promotion to the post of Principal of the College and has been appointed in violation of the AICTE Rules. Admittedly, the rules which were recommended by the AICTE have not been notified but the relevant rules are those notified by Notification dated 18.7.2000, copy of which has been annexed to the reply filed by

12

the respondents. The respondents have also categorically stated in their reply that respondent 5 has been appointed as Principal of the College on the recommendations of the UPSC/DPC as per the RRs as he fulfils the criteria as required by the Rules. We note from Note 1 below Column 8 of the RRs that the qualifications are relaxable at the discretion of the UPSC, in case of a candidate who is otherwise well qualified. Under Column 12 it has been stated that a Professor of the College of Pharmacy with three years regular service in the grade is eligible for consideration for promotion to the post of Principal. In the facts and circumstances of the case, the contention of the learned counsel for the applicants that Respondent 5 does not possess the essential qualifications as laid down in the RRs cannot be accepted and is accordingly rejected.

8. The grievance of applicant No.2 would arise only if under the RRs the aforesaid post of Principal of the College is to be filled by the other methods mentioned in Column 11, namely, deputation or direct recruitment. That is not the position here. Therefore, as he does not even possess the essential qualifications for consideration for promotion to the post of Principal of the College, he cannot be considered as an 'aggrieved person' under Section 19 of the Administrative Tribunals Act, 1985.

9. Rule 4(5)(b) of the CAT(Procedure) Rules, 1987 notified under Sections 35 and 36 of the Administrative Tribunals Act, 1985 provides as below:-

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13

" Such permission may also be granted to an association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the class/grade/categories or persons on whose behalf it has been filed provided that at least one affected person joins such an application."

(emphasis added)

V It is seen from the above provisions that where an Association is one of the applicants at least one affected person should join in the application while filing the joint application before the Tribunal. As mentioned above, the members of the College of Pharmacy Teachers Association /applicant No.1 before us are only Lecturers, barring Dr. Mazumdar who is an Assistant Professor. Applicant No.2, Dr. A.K. Madan has already resigned from the College as far back as 30.4.1996 and is, therefore, also not eligible for consideration for promotion as prescribed under the RRs.


10. In this view of the matter, we agree with the contentions of Mrs Meera Chhibber, learned counsel for the respondents that none of the applicants in this OA is an "aggrieved person or an affected person who alone can file an application before this Tribunal as provided under Section 19 of the Administrative Tribunals Act, 1985 or Rule 4 (5) of the CAT (Procedure) Rules, 1987. The judgements of the Supreme Court (supra) relied upon by the learned counsel for the respondents are also fully applicable to the facts of the present case and the Tribunal cannot, therefore, entertain a PIL. In the Tribunal's order dated 23.3.2001 it has been observed that no affected party who is required to be joined has been impleaded in the OA as required under the provisions

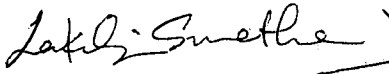
82

of Rule 4(5)(a and b) of the CAT(Procedure) Rules, 1987. 14

We find that the same position exists today, even after applicant No.2 has joined as one of the applicants.

11. In the result, for the reasons given above, we find merit in the preliminary objection taken by the respondents. The OA is accordingly dismissed. No order as to costs.


(S.A.T. Rizvi)
Member(A)


(Smt. Lakshmi Swaminathan)
Vice Chairman(J)

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