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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 2180/1995

NEW DELHI THIS THE 15TH DAY OF FEBRUARY, 1996

HON'BLE MR JUSTICE P.K SHYAMSUNDAR, ACTING CHAIRMEN
HON'BLE MR K.MUTHUKUMAR, MEMBER(A)

Dr. A.R.Qazi
S/o Shri O.R.Qazi
R/o 116-D, Sec.4,
Pushp Vihar,
New Delhi.

Applicant

(BY ADVOCATE SHRI S.S.TIWARI)

vs.

1. Union of India, through
Secretary,
Ministry of Health & Family Welfare
Nirman Bhawan,
New Delhi.

2. Secretary, C.H.S.(VI)
Ministry of Health & Family Welfare
Nirman Bhawan
New Delhi.

3. Additional Director, C.G.H.S.(HQ)
Nirman Bhawan
New Delhi.

4. Additional Director, C.G.H.S.(CZ)
Nirman Bhawan
New Delhi.

5. Dr (Mrs.) Alyia Aman
Deputy Advisor(Unani)
Room No.530, Nirman Bhawan
New Delhi
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Respondents

(BY ADVOCATE SHRI M.K.GUPTA)

ORDER(ORAL)

JUSTICE P.K.SHYAMSUNDAR:

We have heard both sides on the admission stage itself and propose to dispose of the OA on the basis of the submissions made at the Bar. The applicant who claims to be a Senior Medical Officer(Unani) with MD qualification is seriously aggrieved by the assignment of the 5th respondent as a Specialist Consultant(Unani) at the C.G.H.S Unani dispensary, South Avenue, New Delhi for three days in a week by order dated 7.7.1995. That is the order impugned in this OA.

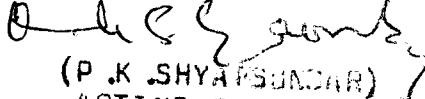
2. The contention is that the applicant possesses MD qualification in Unani and that qualification, the 5th respondent does not have. Nonetheless it is pointed out that in the hierarchy of Medical Officer in Unani system, the 5th respondent is the Deputy Advisor which is equivalent to Chief Medical Officer commanding a pay-scale of Rs 3000-6000 whereas the applicant albeit being MD is in the rank of Senior Medical Officer which probably carries a lesser pay scale. Be that as it may, what is apparent is that the 5th respondent is not actually appointed to work against a post under the impugned order but what has been done is simply to give him extra work of functioning as/Specialist Physician in the C.G.H.S. Unani Dispensary, South Avenue, New Delhi for three days in a week. May be if regard is had to higher attainment vis a vis higher educational qualification one may probably say that the applicant is better qualified than the respondent No 5 to offer specialist consultation to people who may require such attention. It cannot, however, be said that a person who has higher qualifications is always competent to offer specialist advise. That service can also be rendered even with lesser qualification by a person who may be more experienced. Apparently, the 5th respondent who is in the rank of Deputy Advisor to the Government is superior to the applicant in the hierarchy. We are quite sure that if respondent No 5 was not competent to advise people Government would not have assigned that work to her. This is a matter which Government has probably pondered over before making the order entrusting the 5th respondent with the additional work of offering specialist advise for three days in

a week. We do not see how the applicant can be aggrieved by that arrangement. May be the applicant possesses a qualification which the 5th respondent lacks. But it cannot be said that the 5th respondent has been singled out for favourable treatment vis a vis the applicant. The applicant and even the 5th respondent we need hardly reiterate that they have a right to hold a post even if the post itself is not there. There can be no complaint that an ill-equipped person is holding that post. All that the Government has done is to ask one of its senior officers to do some extra work. May be the applicant could have been given that opportunity already. That is no ground to find fault with Government and accuse them of having made a wrong choice. This being the only point raised, we find no merit in it. This OA, therefore, fails and is dismissed but without any order as to costs.

3. At this stage, the learned counsel for the applicant asks us to commend the applicant's services for appointment as a specialist if and when the post of a specialist is created. That is a matter for Government to consider but perhaps to make any observation in that behalf is too pre-mature.


(K. MUTHUKUMAR)
MEMBER(A)

SNS


(P.K. SHYAMSUNDAR)
ACTING CHAIRMAN