

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1776/97

New Delhi, this the 2nd day of December 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Shri N. Sahu, Member (A)

Shri Hakim Syed Ahmed,
Son of Shri S.K. Hassain,
Resident of 84/4 Hauz Rani,
New Delhi.

Petitioner

(By Advocate: Shri S.S. Tiwari)

-Versus-

Union of India, through

Secretary,
Union Public Service Commission,
Dholpur House,
Shahjahan Road,
New Delhi.

Respondents

(By Advocate: Shri K.R. Sachdeva)

ORDER

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)

The petitioner in this case was appointed on 1.1.1997 on monthly wage in CGHS by an order dated 25.6.1988 as Medical Officer, (Unani) on ad hoc basis in the scale of Rs. 2200-4000. The respondents vide advertisement No. 1 dated 13.1.1997 advertised for the post of Medical Officer (Unani) in CGHS. The application of the petitioner was rejected when the respondent resorted to shortlist the candidates and as a result the petitioner was not called for interview.

2. Aggrieved by the said alleged arbitrary action of the respondents the petitioner filed OA in this Court vide OA 2520/96 and a Division Bench of this Court dismissed the said OA stating in the

circumstances UPSC is permitted to shortlist for the convenience and reducing the number of candidates when the respondents receives a large number of application.

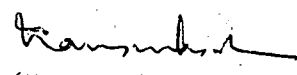
3. Aggrieved by the said order the petitioner approached the High Court by CW 1681/97 by an order dated 16.5.1997 the Hon'ble High Court set aside the order of this court stating that in the circumstances, shortlisting of the petitioner was not in accordance with the law even though UPSC in such circumstances could short list the candidates. In pursuance to the order of the High Court the result of the interview given by the petitioner was declared and the petitioner was found not to have made the grade. The petitioner in the circumstances filed this OA stating that the respondents had not considered the ten years ad hoc service prior to the date of interview and thus the absence of such consideration has resulted in failure of the petitioner during the interview. It was also stated that after the decision of the High Court no reconsideration was granted to the petitioner and since the interview was held prior to these decisions, the petitioner assumes that 10 years ad hoc service might not have been taken into consideration while deciding the fate of the petitioner by the UPSC. The petitioner in the circumstances also made a request to call for the records to find out whether the ad hoc service of the petitioner to the tune of 10 years have been taken into consideration by the UPSC.

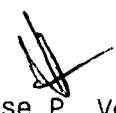
4. After notice, the respondents stated that the UPSC has taken into consideration the ad hoc service of 10 years of the petitioner as well and the

order of the High Court was only not to short list the petitioner and consider his case without being affected and excluded in the process of short listing. It was stated that there was no positive order against the respondents to consider the 10 years of ad hoc service of the petitioner for selection. He contended that such consideration was relevant to the question of short listing only which infact was the only issue relevant at that time.

5. This court has considereed the entire matter and heard both the parties and perused the pleadings and there was no reason why this court should disbelieve the statement of the respondents that 10 years service has been considered by the UPSC. We are unable to call for the records in the absence of any allegation against the respondents that the respondents have acted in arbitrary manner or with malafide intentions. In the absence of such allegation this court cannot be a party to call for records for the petitioner to fish out new ground for detecting upon to a post which was considered and rejected by the UPSC in accordance with the law.

6. In the circumstances this OA fails. No order as to cost.


(N. Sahu)
Member(A)


(Dr. Jose P. Verghese)
Vice Chairman (J)

Mittal