

Central Administrative Tribunal
Principal Bench

O.A. No. 709 of 2000.

New Delhi, dated this the 13th July, 2001

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)
HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Ms. Geeta Tewari,
D/o Mr. M.M. Tewari,
R/o 13/80A, Vikram Vihar,
Lajpat Nagar-IV,
New Delhi-110024. .. Applicant

(By Advocate: Shri K.R. Sachdeva)

Versus

1. U.P.S.C., through
the Secretary,
Dholpur House,
Shahjahan Road, New Delhi.
2. Director,
Directorate of Training &
Technical Education,
Govt. of NCT of Delhi,
New Delhi.
3. Ms. Sangeeta Jain,
W/o Shri Rakesh Jain,
R/o 115, Pushpanjali,
Trans Yamuna,
Delhi-110092. .. Respondents

(By Advocates: Shri N.S. Mehta for R-1
Shri R.K. Singh proxy
counsel for Shri A.K. Chopra
for R-2
Mrs. Meera Chhibber for R-3)

ORDER

S.R. ADIGE, VC (A)

Applicant prays for quashing of the selection for the post of Lecturer (Beautician) in Govt. Polytechnic under Directorate of Training & Technical Education, New Delhi conducted by UPSC on 4.4.2000. She seeks a direction to Respondent No.1 to call her for interview for assessing her suitability for appointment to the said post, and to restrain R-2 from acting upon the recommendations of Respondent

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No.1 if made without considering applicant's candidature.

2. Admittedly on 12.9.98, UPSC invited applications for one post of Lecturer (Beautician) (Rs.8000-13500) in Govt. Polytechnic, New Delhi (Annexure A-1). The qualifications prescribed were essential: (i) Degree of a recognised university or equivalent; (ii) Diploma in Beauty Culture of not less than two years duration from a recognised institute or equivalent; desirable professional/teaching experience.

3. In response, 68 applications were received. In view of the large number of applications received in relation to only one vacancy, UPSC decided to short list the candidates, and the short listing criteria adopted were that persons possessing the essential qualifications with not less than three years full time professional/teaching experience were called for the interview.

4. Eleven candidates fulfilled the above shortlisting criteria, which corresponds to UPSC's own instructions that upto 12 candidates can be called for filling up of one vacancy. Applicant who as per her own application form did not possess three year full time professional/teaching experience was not called for the interview.

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5. One of the 11 candidates Smt. Sangeeta Jain who did possess the prescribed shortlisting criteria of three years full time professional/teaching experience was recommended for appointment. Meanwhile, before the selection results could be finalised, ~~as~~ applicant had filed this O.A. on 25.4.2000, and by ex-parte interim order dated 26.4.2000 respondents had been directed not to finalise the results of the interview, till further orders, and the interim orders were extended from time to time. Further, ^{now,} Smt. Sangeeta Jain had not been impleaded as a party in the O.A. Eventually by order dated 13.10.2000, Smt. Sangeeta Jain who meanwhile had filed M.A. No. 445/2000 was allowed to be impleaded as a respondent and the interim order dated 26.4.200 were modified such that while respondents were not restrained from issuing appointment letter to Ms. Sangeeta Jain, and she was permitted to join duty on the post of Lecturer (Beautician) in Govt. Polytechnic to which she had been selected, the same was made subject to the outcome of the O.A.

6. We have heard Shri K.R. Sachdeva for applicant; Shri N.S. Mehta was heard on behalf of official respondents, UPSC while Mrs. Meera Chhibber was heard on behalf of private respondent Smt. Sangeeta Jain.

7. The main grounds advanced by Shri Sachdeva are that applicant possessed all the requisite educational and experience qualifications

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prescribed, and could not have been denied the call letter, when it was issued to others with lesser qualifications and experience, particularly as she had been discharging the duties of that post on part time basis. In this connection it is contended that this shortlisting criteria adopted by respondents is illegal and arbitrary. Various rulings have been cited by Shri Sachdeva including Delhi Transport Corporation Vs. DTC Mazdoor Congree & Others AIR 1991 SC 101; O.A. No. 2516/98 Dr. O.P. Lathwal Vs. Union of India & Others; M.P. PSC Vs. N.K. Poddar and another (1994) 6 SCC 293. A list of cases cited by Shri Sachdeva is taken on record.

8. On the other hand Shri N.S. Mehta and Mrs. Chhibber stated that it ^{is} ~~was~~ well settled that where the number of applicants was very large in regard to the availability of vacancies, a shortlisting criteria could be resorted to, and Courts/Tribunals were not required to intervene, unless such criteria was found to be manifestly illegal, or arbitrary. In the present case they asserted that in commonance with past practice, those with full time experience were preferred to those with part time experience and such ^{the shortlisting} ~~a~~ criteria ^{adopted} ~~was~~ perfectly reasonable and non-arbitrary. It was further asserted that what was required ^{for} ~~ed~~ for the post was not higher academic qualifications in ~~other~~ subjects not related to beauty culture, but a diploma in beauty culture, and professional/teaching experience. In this view of the matter it was asserted that the shortlisting criteria adopted by

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UPSC was perfectly reasonable and the O.A. warranted no interference. In this connection we were informed that other candidates, ^{who} were also discharging the duties of the post of Lecturer (Beatutician) on part time ^{basis, but} none of whom had been called for interview.

9. We have considered the matter carefully.

10. In M.P. PSC Vs. N.K. Poddar (1994) 6 SCC 293 the Hon'ble Supreme Court has held that when the selection is to be made purely on the basis of interview (as in the present case) and if the number of applications is enormous in relation to the number of available posts, shortlisting of candidates on some rational and reasonable basis is legal. In the present case having regard to the fact that there was only one vacancy and as many as 69 applications had been received, respondents cannot be ^{faulted} for resorting to shortlisting.

11. It also cannot be said that the shortlisting criteria of three years full time professional/teaching experience was illegal or arbitrary. When candidates with full time professional/teaching experience were readily available, respondents were not obliged to include persons with part time/ad hoc/temporary experience, and when there were 11 candidates with three years full time professional/teaching experience available for the single vacancy, which conformed to respondents' own instructions of calling upto 12 candidates for a single vacancy, it is clear that respondents cannot be

faulted on the shortlisting criteria fixed by them.

Here ~

~ Hence it is important to remember that as the post is that of a Lecturer (Beautician), academic qualifications unrelated to the job requirements would not be as relevant as full time professional/teaching experience.

12. In the result in our considered opinion the O.A. warrants no interference. During hearing Mrs. Chhibber asserted that applicant had not come to the Tribunal with clean hands, in as much as she was aware that the call letter had been sent to her own sister (who was one of the 11 candidates called) but not to her, but she did not file the O.A. then itself. Instead she waited till the selections were finalised, and then secured the ex-parte interim order, without even impleading Smt. Sangeeta Jain. Shri Sachdeva denied this assertion and contended that applicant had no meansⁿ of knowing that Smt. Sangeeta Jain had been selected to enable her to be impleaded, and she approached the Tribunal at the correct time to challenge the selection.

13. We do not consider it necessary to go into these specific contentions any further, but we make it clear that the interim orders passed on 26.4.2000 and extended from time to time will not act as any impediment in respondents treating Smt. Sangeeta Jain as appointed to the post of Lecturer (Beautician) in Govt. Polytechnic w.e.f. the date

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she reported for duty there with all consequential benefits in terms of pay, allowances, seniority, increments etc.

14. Subject to what has been stated in Para 13 above the O.A. is dismissed. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member (J)

S.R. Adige

(S.R. Adige)
Vice Chairman (A)

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