

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-1232/89

Date of decision: 18.9.92

Dr. Janak Raj Sabharwal .... Applicant

Versus

Union of India through  
Secretary, Ministry of  
Health & Family Welfare  
& Others .... Respondents

For the Applicant .... Shri Ashok Mahajan, Advocate

For the Respondents .... Shri N.S. Mehta and Ms. Sandhya  
Goswamy, Advocates.

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed  
to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble  
Shri P.K. Kartha, Vice Chairman(J))

The applicant, who had applied for the post of Maxillo-  
facial Surgeon in the Directorate of Health Services pursuant  
to an advertisement issued by the U.P.S.C., was not called  
for the interview on the ground that he did not possess the  
requisite qualifications. He has, therefore, filed the  
present application praying for the following directions:-

(i) Setting aside the Recruitment Rules and the

21

advertisement issued by the Union Public Service Commission for the post of Maxillo-facial Surgeon in Safdarjung Hospital to the extent the same require the qualification of M.D.S. in Prosthodontics of a recognised University or equivalent and three years' experience in Plastic and Maxillofacial Surgery Unit;

- (ii) declaring the requirement of the aforesaid qualification of M.D.S. in Prosthodontics of a recognised University and three years' experience in Plastic and Maxillofacial Surgery Unit as illegal, invalid and unfounded;
- (iii) consequently declaring the applicant qualified for the post of Maxillofacial Surgeon in Safdarjung Hospital and entitled to be called for interview which are going to be held on 23rd June, 1989 or may be held at any time on any other day and he is entitled to be considered for the said post;
- (iv) directing the respondents to treat the requirement of qualification of M.D.S. in Prosthodontics of a recognised University and three years' experience in Plastic and Maxillofacial Surgery

Unit as illegal, invalid and unjustified; and  
(v) consequently, directing the respondents to  
treat the applicant qualified for the post of  
Maxillofacial Surgeon as advertised by the  
U.P.S.C. vide advertisement dated 4th February,  
1989 and also directing the respondents to  
call the applicant for interview which are  
going to be held on 23rd June, 1989 or may be  
held at any time on any other date and to  
consider him for the said post of Maxillofacial  
Surgeon.

2. On 23.6.1989, the Tribunal passed an interim order  
to the effect that if any selections are made in pursuance  
of the interview which was alleged to be held on 23.6.89,  
the results would not be declared and they will also be  
subject to the final orders on this application.

3. During the pendency of the present application,  
MP-2581/89 was filed by Dr. Dhirendra Srivastava, who is  
working as Maxillofacial Surgeon in the Safdarjung Hospital  
praying for impleading him as a respondent. The applicant  
has alleged in his application that the qualifications  
prescribed for the post advertised have been tailor-made  
so as to favour Dr. Srivastava, who is already working on  
an ad hoc basis in the said post.

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4. We have gone through the records of the case and have heard the learned counsel for the applicant, the respondents and the Intervenor. After hearing them, we are of the opinion that Dr. Srivastava is also a necessary party and we allow MP-2581/89.

5. The case of the applicant in brief is that he is fully qualified for appointment to the post advertised, whereas the case of the respondents is that he lacks the essential qualifications. The qualifications for the post of Maxillofacial Surgeon have been laid down in the Directorate General of Health Services (Maxillofacial Surgeon) Recruitment Rules, 1985 which were notified in the Gazette on 14.1.1986. The said Recruitment Rules have been challenged in the present application on the ground that they are illegal and arbitrary. The respondents have contended that Dr. Srivastava, the Intervenor, joined as Maxillofacial Surgeon in the Safdarjung Hospital on an ad hoc basis on 7.11.1987, which was more than one year after the Recruitment Rules were notified in the Gazette. They have, therefore, submitted that the contention of the applicant that the Recruitment Rules were tailor-made to suit the qualifications of Dr. Srivastava, is devoid of any merit.

6. The qualifications prescribed for the post of Maxillofacial Surgeon are the following:-

"xxxx      xxxx      xxxx      xxxx

(ii) Post-Graduate qualification in Dentistry i.e. M.D.S. in Oral Surgery/Prosthodontics of a recognised University or equivalent;

(iii) 7 years' experience in dental work in a hospital which should include a minimum of 3 years' experience in a Plastic and Maxillofacial Surgery Unit after Post Graduation; and

(iv) should be registered with a Dental Council."

7. The qualifications which were notified in the advertisement issued by the U.P.S.C., are also in accordance with those contained in the Recruitment Rules extracted above.

8. The applicant has argued that M.D.S. in Prosthodontics and experience in a Plastic and Maxillofacial Surgery Unit after Post Graduation, are not relevant to the post of Maxillofacial Surgeon. During the arguments, a reference was made to a letter dated 14.6.1989 written by Dr. G.L. Sabharwal, Honorary Adviser (Dental), Ministry of Health & Family Welfare in which he has stated that the qualifications prescribed for the post of Maxillofacial Surgeon should be revised. This is in line with the contention advanced by the applicant before us.

9. As against the above, the respondents have argued that the Rules have been framed according to the requirement of the Department with the concurrence of the Department of

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Personnel, Ministry of Law, and the U.P.S.C. M.D.S. (Prosthodontics) was included because it is helpful in correcting and rehabilitating the mutilated cases having facial defects caused by trauma and excisional/oblation surgery. Experience in Plastic and Maxillofacial Unit after Post Graduation, has been found necessary because very often Plastic Surgeon and Maxillofacial Surgeon have to work as a team in coordination to provide the best management of bony as well as soft tissue injuries, either due to direct trauma or excisional/oblation surgery. The respondents have pointed out that in most accident cases with facial injury and broken jaw, there is also injury to the flesh and tearing of facial skin and the purpose of maintaining an integrated unit is to attend to the bony as well as soft tissue injury to the face in a coordinated manner in one Unit.

10. In our opinion, the aforesaid instructions for inclusion of the qualifications in Prosthodontics and experience in Plastic Surgery in the Recruitment Rules, cannot be said to be arbitrary or unreasonable. The respondents have stated that there are a number of doctors with such an integrated Post-graduate experience. While the applicant does not possess the necessary qualifications or experience, Dr. Srivastava fulfills the same.

11. On careful consideration of the rival contentions, we are of the opinion that the applicant is not entitled to the reliefs sought by him. We uphold the validity of the Recruitment Rules which have been challenged before us. We also do not see any reason or justification to interfere with the selection made by the U.P.S.C. out of the candidates who fulfil the qualifications prescribed in the Recruitment Rules. Accordingly, the interim order passed on 23.6.1989, is hereby vacated. The application is also dismissed on the merits. There will be no order as to costs.

*B. N. Dholiyal*  
(B.N. Dholiyal) 18/9/92  
Administrative Member

*PKK*  
18/9/92  
(P.K. Kartha)  
Vice-Chairman (Judl.)