



**CENTRAL ADMINISTRATIVE TRIBUNAL  
JAMMU BENCH JAMMU**

Dated: This day the 15<sup>th</sup> of July 2020

(Orders reserved on 10.07.2020)

**HON'BLE Dr. BHAGWAN SAHAI, MEMBER – A**  
**HON'BLE MR. RAKESH SAGAR JAIN, MEMBER – J**

**O.A. No.061/00258/2020**

Dr. Vikas Sharma Age 30 years S/o Sh. Sham Lal Sharma, R/o  
VPO Chhapakian Tehsil Hiranagar, Kathua.

**.....Applicant**

By Advocate: **Mr. Ankur Sharma**

**Versus**

1. Chairman, Jammu and Kashmir Public Service Commission,  
Resham Garr Colony, Jammu.
2. Principal, Indira Gandhi Dental College, Amphalla, Jammu.

**.....Respondents**

By Advocate: **Mr. Sudesh Magotra, DAG**

**ORDER**  
**Per Mr.Rakesh Sagar Jain, Member (J)**

- 1) Case of applicant Dr.Vikas Sharma is that in response to notice  
No. DIP/J-14968/19 dated 10.03.2020 issued by respondents  
No. 2, he applied for the post of Lecturer in the Department of  
Conservative Dentistry Periodontics & Oral Pathology. It is the



case of applicant that despite having the required qualification, respondent did not allow him to take the interview. This action of the respondents has been challenged by the applicant in the present O.A. Applicant seeking mainly the following relief:-

“(i) Directing the Respondent No. 2 to appoint the applicant on the post of Lecturer in the Department of Conservative Dentistry, Periodontics and Oral Pathology, Indira Gandhi, govt. Dental College, Jammu. ”

- 2) It has been argued by learned counsel for applicant that one of the conditions of the Advertisement was that the “**Candidates must have two years teaching experience in the concerned specially as Registrar/demonstrator/Tutor from any DCI recognized Institute after Post-graduation**” and since the applicant has two years experience as Lecturer in DCI recognized College i.e. Desh Bhagat Dental College & Hospital as per certificate (Annexure A-8) and this qualification was similar to that possessed by the candidates in LPASW No. 4/2010 titled JKPSV v/s Dr. Gaurav Gupta and others and in which case the PSC took the stand that the qualification held by the candidates in that case which is similar to that of applicant herein is to be considered for appointments.
- 3) It has been further argued by learned counsel for applicant that the judgment of the Hon'ble High Court rejecting the stand of PSC has been stayed by the Hon'ble Apex Court as per order (Annex A11). Applicant submits that he be called for interview and appointed on the basis of the qualification held



by him which is similar to the one held by the candidates appointed previously by the PSC.

- 4) On the other hand, the stand of respondents is that the applicant does not fulfill the eligibility criteria mentioned in the advertisement and since the matter is sub judice before the Hon'ble Apex Court, no relief can be given to the applicant.
- 5) We have heard and considered the arguments of the learned counsel for applicant learned DAG for the respondents and gone through the material on record.
- 6) Respondents in their affidavit have not denied the averment regarding the stand taken by the PSC.
- 7) The question arising in this case is whether this Tribunal can direct the Government to have a particular method of recruitment or eligibility criteria or impose its views substituting for that of the State. The answer would be clearly in the negative.
- 8) After having considered the materials available on record, we have found no substance in the claim of the applicant. A process of selection and appointment to a public office should be absolutely transparent, and there should be no deviation from the terms and conditions contained in the employment notice/advertisement issued by the recruiting agency during the recruitment process and the rules applicable to the recruitment process in any manner whatsoever, for a deviation in the case of a particular candidate amounts to gross injustice to the other candidates not knowing the fact of deviation benefitting only one or a few. The procedure has to be the



same for all the candidates. The terms and conditions of the employment notice being binding on all candidates and respondents, acceptance of the interpretation pleaded by the applicant on the required qualification, besides being violative of the terms and conditions of the employment notice, would be tantamount to denial of equal opportunity to those other candidates who would have appeared in the interview if they had known that the qualification of Lecturer having 2 years of teaching experience is included the description of the Qualification as advertised in the notice.

- 9) On the power of the Tribunal to add or vary the terms of qualifications mentioned in a advertisement, We may refer to **P.U. Joshi & Others Vs. Accountant General** 2003 (2) SCC 632 wherein the Hon'ble Apex Court that:-

“10. We have carefully considered the submissions made on behalf of both parties. Questions relating to the constitution, pattern, nomenclature of posts, cadres, categories, their creation/abolition, prescription of qualifications and other conditions of service including avenues of promotions and criteria to be fulfilled for such promotions pertain to the field of Policy and within the exclusive discretion and jurisdiction of the State, subject, of course, to the limitations or restrictions envisaged in the Constitution of India and it is not for the Statutory Tribunals, at any rate, to direct the Government to have a particular method of recruitment or eligibility criteria or avenues of promotion or impose itself by substituting its views for that of the State. Similarly, it is well open and within the competency of the State to change the rules relating to a service and alter or amend and vary by addition/subtraction the qualifications, eligibility criteria and other conditions of service including avenues of promotion, from time to time, as the administrative



exigencies may need or necessitate. Likewise, the State by appropriate rules is entitled to amalgamate departments or bifurcate departments into more and constitute different categories of posts or cadres by undertaking further classification, bifurcation or amalgamation as well as reconstitute and restructure the pattern and cadres/categories of service, as may be required from time to time by abolishing existing cadres/posts and creating new cadres/posts.”

- 10) Thus, in our considered opinion, the applicant is not entitled to any relief in view of the judgment of the Apex Court in P.U. Joshi's case (supra). Having regard to the fact that the advertisement responded by the applicant was clear in its terms, we cannot add any words thereto and, in accordance therewith, pronounce that the qualification held by the applicant falls with the definition of the qualification as advertised. In such event, it will amount to reading something in the advertisement which is not there, that will amount to altering by us the terms of the advertisement which we cannot do. The O.A. is, accordingly, dismissed. No costs

**(Rakesh Sagar Jain)**  
**Member (J)**

**(Dr. Bhagwan Sahai)**  
**Member (A)**

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