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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

REGN.NO. D.A. 988/86.

DATE OF DECISION: 10th August, 1992.

Shri Sanjay Tripathi.

.... Petitioner.

Versus

U.P.S.C. & Anr.

.... Respondents.

CORAM: THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.  
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioner.

... Present in person.

For the Respondents.

... Shri N.S. Mehta,  
Sr. Standing  
Counsel.

J U D G E M E N T (ORAL)

(By Hon'ble Mr. Justice V.S. Malimath,  
Chairman)

The petitioner applied for the post of Deputy Legal Adviser in the Ministry of Law and Justice in response to the advertisement of the Union Public Service Commission dated 3.5.1986. As he apprehended that he would not be called for interview, he approached the Tribunal in O.A. 652/86. The Tribunal disposed of that application on 29.9.1986 directing the Union Public Service Commission to consider the claim of the petitioner that he possessed the eligibility conditions for that post, in respect of which he had made a representation on 8.8.1986. In pursuance of the directions issued by the Tribunal, the representation of the petitioner was considered and rejected on 29.10.1986 ( as per Annexure IV). It is in this background that the petitioner has approached this Tribunal for appropriate relief.

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2. The Union Public Service Commission has taken the view that the petitioner was not called for interview as in its opinion he did not possess the prescribed essential qualifications for that post. The qualifications are prescribed by the Indian Legal Service Rules, 1957. The post of Deputy Legal Adviser is a duty post in Grade III. The qualifications for this post are prescribed by Rule 7(1)(c), which reads as follows:

"A person shall not be eligible for appointment by direct recruitment to a duty post in Grade III, unless he has been a member of a State Judicial Service for a period of not less than ten years or has held a superior post in the legal department of a State for a period of not less than ten years or is a Central Government servant who has had experience in legal affairs for not less than ten years or possesses a Master's degree in Law and had teaching or research experience in law for not less than eight years or is a qualified legal practitioner of not less than 35 years and not more than 45 years of age".

3. The petitioner claims that he has the prescribed eligibility, firstly, on the ground that he is a person who possesses a Master's Degree in Law and has the requisite experience of teaching and research for not less than eight years. His second claim is that he is a Central Government servant and has the required experience of not less than ten years prescribed by the Rules.

4. In support of his first claim the petitioner has asserted that he has obtained a Master's Degree in Philosophy from the Jawahar Lal Nehru University. He has produced a copy of the certificate given by the said University, which certifies that the petitioner has been admitted to the

Degree of Master of Philosophy, having completed the prescribed courses and submitted a dissertation on "Treatment of Aerial Intruders and International Law".

5. The Union Public Service Commission has filed a reply in which they have stated that the Degree relied upon by the petitioner is not a Master's Degree in Law contemplated by the Rules. It is further stated that before coming to this conclusion, the Union Public Service Commission obtained legal opinion, which has been extracted in the reply. One of the reasons given in the legal opinion for coming to the conclusion that the Master's Degree in Philosophy obtained by the petitioner in the subject of International Law reads as under:

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"In short, according to the eligibility requirements mentioned above, a candidate with an M.A. degree in Political Science with the International Law as one of the subjects, without having any degree in law, could also be admitted to International Legal Studies. It is inconceivable that the holder of a degree of Master of Philosophy, who has had no degree in Law, could be allowed to be recruited to the Ministry of Law and Justice which advises the Government of India on legal matters. It may be that, in some cases, the holder of the degree of Master of Philosophy from JNU has also a degree in Law. However, as long as the eligibility requirements prescribed by JNU permit candidates not having degrees in Law to obtain their degree of Master of Philosophy, it is difficult to maintain that the degree of Master of Philosophy of JNU is the same thing as the degree of Master of Law.

(4) In view thereof, it appears to us that the degree of Master of Philosophy of JNU cannot be equated with the Master's Degree in Law, especially in the context of the relevant recruitment rules of the Ministry of Law and Justice".

It is, therefore, clear that the Union Public Service Commission has made a very honest effort to examine as to whether the qualifications possessed by the petitioner answer the requirement of the recruitment rules. On the face of it, it is clear that the degree of Master of Philosophy possessed by the petitioner is not a Master's degree in Law. The Rule does not prescribe that any equivalent qualifications can be taken into account. If it was the intention of the rule making authority that any qualifications other than the Master's Degree in Law should also be taken into account, it would have prescribed for taking into consideration the equivalent qualifications as well. It is, therefore, clear that the rule making authority intended to exclude from the purview the other equivalent qualifications. So far as the qualification possessed by the petitioner is concerned, it is not possible to take the view that it is a Master's Degree in Law. The view taken by the Union Public Service Commission cannot, therefore, be faulted. The petitioner cannot claim that he has the requisite qualification of Master's Degree in Law and, therefore, eligible for the post.

6. The next claim of the petitioner is that he is a Government servant holding the post of Assistant Law Officer in the Law Commission of India under the Central Government.

The rule provides that the Central Government servant who


✓ has had experience in legal affairs for not less than ten

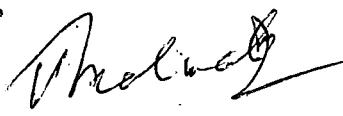
years can be considered as eligible. The petitioner has to establish that he has the requisite experience in legal affairs for not less than ten years. The Original Application of the petitioner presented before the Union Public Service Commission was made available to us by Shri N.S. Mehta, Senior Standing Counsel for the Respondents. Column No.10 provides for furnishing of information in regard to experience. There are separate columns for indicating, firstly, the extent of experience and, secondly, the type of experience. In regard to the type of experience, the petitioner has stated in the application that he has research experience, administrative experience and teaching experience. He has nowhere stated that he has experience in legal affairs. The rule has made a clear distinction between experience in legal affairs and teaching, research or administrative experience. The teaching, research or administrative experience is different from experience in legal affairs. The petitioner has not laid any claim, as required by the rules, that he had the requisite experience in legal affairs for not less than ten years. As that is the requirement of the rules and the petitioner has not claimed that he possessed the requisite experience in this behalf, he cannot claim that he is eligible for that post. Hence, it is not possible to accept the second claim of the petitioner either. We, therefore, hold that the Union Public Service Commission was right in not inviting the petitioner for interview.

7. It was next contended that Rule 7(1)(c) of the rules is ultravires of the Constitution on the ground that it is discriminatory and violative of Articles 14 and 16 of the Constitution inasmuch as the educational qualification such as LL.M has been prescribed for those having teaching or research experience whereas no such qualification has been prescribed for persons possessing other types of experience. The petitioner is right in pointing out that it is only in respect of persons having eight years of teaching or research experience that educational qualification in law has been prescribed and not in respect of other categories. If we analyse the rules it becomes clear, so far as judicial Officers are concerned, that they would be eligible if they have not less than ten years of experience. So far as the persons holding superior posts in the legal department of a State are concerned, they would be eligible if they have experience of not less than ten years. So far as legal practitioners are concerned, no experience as such has been prescribed. They are only required to satisfy the age requirement of not less than 35 years and not more than 45 years. It is clear from the scheme of the rules that teaching and research experience is not treated on par with the experience of judicial officers or persons holding superior post in the legal department as also Central Government servants having experience in legal affairs. The scheme of the rules makes it clear that so far as legal practitioners are concerned, no experience as such is prescribed. But having

regard to the prescription of the age requirement, it is obvious that before a legal practitioner becomes qualified, he would have sufficient experience in the bar. For the post of the Deputy Legal Adviser, adequate knowledge of law and practical experience would be necessary. Teaching and research experience by itself would not meet this requirement. The rule making authority has, therefore, prescribed for such persons an additional educational qualification, namely, that they should have Master's Degree in Law. The qualification of Master's Degree in Law is relevant having regard to the objects sought to be achieved for securing persons with requisite competence and experience for the post of the Dy. Legal Adviser. As regards other categories are concerned, the nature of the experience prescribed in the field of law is quite adequate. Hence, there is no substance in the arguments of the petitioner that the rules prescribing educational qualifications for teachers and researchers are discriminatory and violative of Articles 14 and 16 of the Constitution. That the rule has subsequently been amended prescribing a basic Law Degree for the other categories does not in any way advance the case of the petitioner.

8. For the reasons stated above, this petition fails and is accordingly dismissed. No costs.

  
( I.K. RASGOTRA )  
MEMBER(A)

  
( V.S. MALIMATH )  
CHAIRMAN