

(90)

IN THE CENTRL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Regn. No O.A. No 1342/91

Date of decision 4.8.92.

Dr. Pradeep Agrawal

Applicant

Shri Shyam Babu

Counsel for the applicant

vs

Union of India & Ors.

Respondents

Shri N.S. Mehta, / Sr. Standing

Counsel for the respondents

CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J).

The Hon'ble Mr. L.P. Gupta, Member (A).

1. Whether Reporters of local papers may be allowed to see the judgment?
  2. To be referred to the Reporter or not?
  3. Whether their Lordships wish to see the fair copy of the judgment?
  4. Whether it needs to be circulated to other Benches of the Tribunal?
- (Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal singh, Vice-Chairman (J).)

J U D G M E N T

Dr. Pradeep Agrawal, the applicant in this O.A., filed under Section of the 19 of the Administrative Tribunals Act of 1985, has prayed for the relief of quashing the impugned order dated 3.4.91 issuing a (Annexure A-13) and direction to the respondents to appoint the applicant on the post of Specialist Grade-II post of Psychiatrist in the Non-Teaching Specialist Sub Cadre of the C.H.S. from the date when Respondent Nos 5 and 6 were appointed. He has also prayed for a direction to the respondents to pay the consequential benefits from the date Respondent Nos 5 and 6 are working after their appointment.

22 In the advertisement No. 46 of the Union Public Service Commission, Respondent No. 3 and 4, advertised two posts of Psychiatrists, in the Department of Health, as follows

*Remitted*

"Two Psychiatrists, Deptt. of Health Rs 3000-5000 + NPA (T.E. Rs 4815) 45 years. EQ (i) A recog medical qual (ii) Post grad quals in Psychiatry (iii) 3/5 yrs. work in a respons<sup>ible</sup> position connected with the speciality of Psychiatry in the case of Post Grad deg/dip holders respectively. "

The applicant was a Junior Resident since 1st January 1984 to 31st December 1984, for a period of one year prior to his M.D. Thereafter he completed M.D.(Psy) of two years duration having qualified the selection test through written test. The applicant had passed his M.B.B.S. and DMRD and M.D. (Psychiatrist) and applied to this advertisement of Respondent Nos. 3 and 4 which was published in Hindustan Times of December 1989. The eligibility conditions were:

- (i) Recognised medical qualification;
- (ii) Post-graduate qualification in Psychiatry;
- (iii) 3/5 years work in respons<sup>ible</sup> position connected with the speciality of Psychiatry in the case of Post Graduate Degree/Diploma holders respectively.

As the applicant found himself to be eligible to the conditions mentioned in the advertisement, he filled an application form for recruitment through selection. He received a letter from the Under Secretary, U.P.S.C., for production of certificate of experience dated 10.5.90. In pursuance of this, the applicant submitted the House Job Certificate, M.D. and Senior Resident Certificate <sup>from</sup> vide covering letter dated 6.6.90 (Annex. A-3). Thereupon, Respondent No. 3 and 4, he received the interview letter dated 1.8.90 asking him to remain present for interview at the office on 27.8.90 at 9.15 A.M. (Annex. A-4). The applicant appeared before the Commission for interview. He was informed by a letter dated 5.9.90 regarding his selection. He was asked thereafter that he should get himself medically examined and send the report to the Under Secretary to the Govt. of India, Ministry of Health and Family Welfare. He received a letter of appointment to the post of Specialist Grade II in the Non-teaching Specialist Sub Cadre of C.H.S. a Psychiatrist in H.M.D., Shahdara, under Delhi Administration dated 20.9.90 which was sent

*Annex 11b*



by the Under Secretary to Government of India, Ministry of Health and Family Welfare (Annex. A-7). The applicant by Annexure A-9 submitted the letter of acceptance after filing the declaration with regard to the marital status etc. etc. The applicant remained waiting for his posting order after sending reminders. The applicant received the official memorandum on 14.5.91 by which the appointment of the applicant was cancelled (Annex. A-13).

3. His recruitment results were published by the Union Public Service Commission vide Annexure A-6 in which the applicant was shown as selected candidate at No. 1 while Respondent No. 5 was shown at No. 2. The appointment letter (Annex. A-7) contains all the conditions of appointment showing therein the pay scale. The appointment letter dated 20.9.90 indicates that the applicant was a duly appointed candidate after selection by the U.P.S.C. The said appointment of the applicant was cancelled by Respondent No. 2. Thereupon the applicant made several representations with no response.

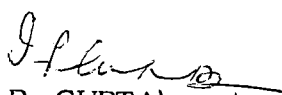
4. The applicant contends that he was duly selected and was at No. 1 of the list of selection and while Respondent No. 2 cancelled the appointment of the applicant, they contravened the principles of natural justice. He also contends that the applicant was not afforded an opportunity of being heard before the cancellation. He points out that the appointment of Respondent No. 5 and 6 was violative of the principles of natural justice. According to him, Respondent No. 6, who was appointed by the respondents was not a duly selected person while Respondent No. 5 was at No. 2 when the selection on merit was made. He also contends that the official respondents have acted irresponsibly with mala fide.

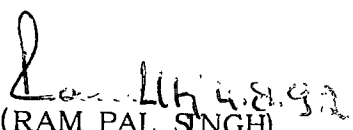
5. On notice the respondents appeared and filed their counter. According to Respondent Nos. 1, 2, 3 and 4, they contend that the applicant was wrongly selected by the U.P.S.C. because he had furnished misleading and false information showing wrongly his professional experience. The other respondents also appeared and filed their return.

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23

6. Shri Shyam Babu, learned counsel for the applicant, has taken us minutely through the records. According to the advertisement of the U.P.S.C. (item (iii)), one of the qualifications was 3/5 years of work in responsible position connected with the speciality of Psychiatry in the case of Post Graduate/Diploma Holders respectively. The applicant was M.D. (Post Graduate) and hence, his experience of 3 years was clearly shown by him in his application. The learned counsel for the official respondents, Shri N.S. Mehta, has candidly conceded that the applicant possessed the requisite qualifications and when he was duly selected by the U.P.S.C. on merit at No. 1, he did not conceal any facts from the respondents. He also conceded that being a post-graduate, his experience of 3 years in the speciality was complete. As Shri N.S. Mehta, learned counsel for the respondents has conceded the point, we thus allow this O.A. and quash the impugned order dated 3.4.1991 (Annex. A-13). In consequence of the quashing of the impugned order, it is further directed to Respondents 1 to 4 to appoint the applicant on the post of Specialist Grade II in the post of Psychiatrist in the Non-teaching Specialist Sub Cadre of the C.H.S. from the date when Respondent Nos. 5 and 6 were appointed. Respondent Nos. 1 to 4 are further directed to give pay and allowances along with other service dues to the applicant from the date Respondent No. 5 and 6 are getting. The respondents shall comply with the directions as early as possible, preferably within a period of three weeks from the date of the communication of a copy of this order. Parties shall bear their own costs.

  
(I.P. GUPTA) 4/8/92  
MEMBER (A)

  
(RAM PAL SINGH)  
VICE-CHAIRMAN (J)