



Central Administrative Tribunal Principal Bench, New Delhi

O.A. No. 83/2021

Thursday, this the 14th day of January, 2021

Through video conferencing

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Dr. Harjit Singh, S/o Jarnail Singh
1st Floor, House No.494
Hardevpuri, Gautam Nagar
New Delhi-110049.

...Applicant

(By Advocate: Mr. Prashant Bhushan)

Versus

All India Institute of Medical Sciences
Through its Director
At Shri Aurobindo Marg, Ansari Nagar
New Delhi-110029.

...Respondent

(By Advocate: Mr. Tanveer Oberoi)

Order (ORAL)

Mr. Justice L. Narasimha Reddy:

The respondents proposed appointment of Assistant Professors of Geriatric Medicine (Main) (APGM for short) on contractual basis. The post was earmarked for Scheduled Caste candidates. An advertisement was issued on 10.08.2020 for walk-in-interview. The qualification and experience for the post are MBBS degree, M.D. in Geriatric Medicine or a recognized qualification equivalent thereto and three years teaching and/or research experience in the



subject of speciality, after obtaining the qualifying degree of M.D. in Geriatric Medicine.

2. The applicant responded to the advertisement and the interview was conducted on 25.08.2020. He is said to be the only one, who appeared in the interview. The post was not filled up and on verification, the applicant found that the Selection Committee did not recommend anyone by observing "not found fit".

3. This O.A. is filed with a prayer to direct the respondents to appoint the applicant as APGM reserved for Scheduled Caste, on the basis of interview held on 25.08.2020. The applicant contends that he studied M.D. in the respondent – Institute itself and there was absolutely no basis to treat him as not fit, to be appointed. He further contends that he functioned as President of the Resident Doctors Association of AIIMS and since he questioned several decisions of the Institute, the administration had a grudge against him and accordingly, he was not appointed. Reference is also made to certain proceedings, which are instituted in the Internal Grievance Cell (IGC).

4. Mr. Prashant Bhushan, learned counsel for applicant submits that the applicant did his Post Graduation in APGM from AIIMS itself, and it is rather surprising, if not shocking, that he was found unfit for being appointed, that too, on contractual basis for a period of one year. He further



submits that in the proceedings before the IGC, one of the Members before the Selection Committee mentioned that the applicant is successful in the walk-in-interview and that it is sufficient to demonstrate that the decision not to select and appoint him, is arbitrary and illegal.

5. Mr. Tanveer Oberoi, learned counsel for respondent, on the other hand, submits that the administration was virtually helpless once the Selection Committee declared that “none is found fit” and it is fairly well settled that the Tribunal or Court cannot sit as appellate authority over the decision taken by the Selection Committee. It is also pleaded that the applicant did not attribute any bias or *mala fide* against the Selection Committee, and in that view of the matter, nothing remains to be decided.

6. There is no dispute about the eligibility of the applicant to be considered for the post of APGM. As a matter of fact, the applicant studied M.D. from the respondent – Institute itself. The fact, however, remains that the Selection Committee, which interviewed the applicant, observed “not found fit”. Once the Selection Committee did not find the applicant fit and did not recommend him, there is nothing, which the administration could have done about it. The plea taken by the applicant that he was victimized on account of his being the President of Resident Doctors Association of AIIMS, could have been



examined, if only the appointing authority declined to appoint him, despite the recommendations by the Selection Committee. It is not in dispute that the Selection Committee declared “none is found fit”. It is fairly well settled that though the appointing authority can refuse to accept the recommendations of the Selection Committee, it cannot appoint anyone, in the absence of recommendations of the Selection Committee.

7. Time and again, the Hon’ble Supreme Court held that the decision taken or the finding recorded by a Selection Committee is not amenable to judicial review, except where the unsuccessful candidate alleges *mala fides* against the Members of the Selection Committee, duly making them parties by name in the proceedings. The applicant did not raise such plea against the Members of the Selection Committee in particular, or the Selection Committee in general. Secondly, none of them, are made party to it.

8. We pointedly asked the learned counsel for applicant as to whether his client intends to implead any Member of the Selection Committee and attribute motive or *mala fides*. The answer is in the negative.



9. Under these circumstances, we are not inclined to entertain the O.A. It is accordingly dismissed. There shall be no order as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

January 14, 2021
/pj/sunil/jyoti/vb/