

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 13TH DAY OF MARCH, 2002

Original Application No. 1326 of 2000

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

Dr.Surendra Bahadur Singh,  
Son of Late Shri Kapil Dev Singh,  
R/o House No.8/236 T Ganesh Dham Colony  
Newada, Sunderpur, Varanasi.

... Applicant

(By Adv: Shri R.S.Maurya)

Versus

1. Union Public Service Commission,  
Dholpur House, Shahjahan Road  
New Delhi through the Chairman
2. Under Secretary Union Public  
Service Commission, Dholpur House  
Shahjahan Road, New Delhi.
3. Union of India through the Secretary  
Ministry of Personnel and Public  
Grievances and Pension, New Delhi.
4. Dr.Sumit Sural, S/o Dr. A Sural  
R/o C-15 S.L.Stephen Hospital, Plot No.4,  
Rajpur Road, Delhi- 110054

... Respondents

(By Advs: S/Shri Satish Mandhyan/M.B.Singh)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

This application u/s 19 of A.T.Act 1985 has been filed challenging the order dated 28.9.2000(Annexure 1) by which the candidature of the applicant, for selection as Assistant Professor of Orthopaedic Surgery in the Department of Health, has been cancelled. It appears that the applicant alongwith his application form, submitted two certificates one certificate was of Guru Teg Bahadur Hospital, Delhi for the period 23.11.1989 to 4.1.1990, showing that he served as Senior Resident in the Department of Orthopaedics. Another certificate submitted by the

applicant was of Institute of Medical Sciences of Banaras Hindu University for a period of 6.1.1990 to 5.1.1993 in the Department of Orthopaedics. Respondents, Commission by a letter dated 24.8.2000 required the applicant to submit a certificate obtained from Guru Teg Bahadur Hospital showing that the job of Senior Resident in Department of Orthopaedics also carry<sup>ing</sup> teaching assignments<sup>as</sup> during the period 23.11.1989 to 4.1.1990. For this purposes applicant was granted 20 days of time from the date of issue of the letter. Thus, the certificate was required to be filed by 13.9.2000. However, the applicant could sent the certificate on 18.9.2000 by post which was received on 21.9.2000. The respondents, as the certificate was not received in time, the candidature of the applicant was cancelled by the impugned order dated 28.9.2000 (Annexure 1), aggrieved by which applicant has approached this Tribunal.

Shri R.S.Maurya learned counsel for the applicant has submitted that according to the advertisement the requisite qualification for eligibility for the post of Assistant Professor of Orthopaedic Surgery was atleast 3 years teaching exerience. Applicant fully satisfied 3 years teaching experience by submitting a certificate from Banaras Hindu University for the period 6.1.1990 to 5.1.1993. It is submitted that even in case the desired certificate from Guru Teg Bahadur Hospital, New Delhi did not reach to the respondents in time, the candidature of the applicant could not be cancelled.

It has also been submitted that the reason for passing the impugned order could not be supplemented by subsequent material like averments made in the counter reply or written statement justifying the passing of the order on different grounds. The learned counsel has

:: 3 ::

submitted that the qualification which was advertised as eligibility for appearing in the selection could not be subsequently changed and for this the impugned order is liable to be quashed.

The learned counsel for the respondents, on the other hand, submitted that, as for this post advertised, number of candidates applied the Procedure of Short Listing became necessary and thus the period of teaching experience was enhanced by three months. The applicant did not satisfy the aforesaid requirement as his certificate was only for three years and 42 days. The certificate was not submitted within time hence the candidature was rightly cancelled. It is submitted that even otherwise even if the certificate <sup>was</sup> ~~was~~ taken into account there was no chance for the applicant to remain in the field as ten candidates satisfied the requirement of three years 3 months.

We have considered the submissions of the counsel for the parties. There is no material on record on which basis the learned counsel for the applicant could convince us that the certificate from Guru Teg Bahadur Hospital <sup>within</sup> could not be sent to Respondent-Commission ~~then~~ the time allowed, though all bonafide efforts were made by the applicant. From the record it appears that desired certificate was issued by the hospital on 10.9.2000 but it was despatched by the applicant on 18.9.2000 i.e. after five days after the expiry of the time allowed i.e. 20 days by letter dated 24.8.2000. In the circumstances, the applicant was not vigilant which was required from him. The examination of other questions is not necessary ~~for the~~ <sup>as</sup> ~~respondent could resort to procedure for~~ ~~purposes of short listing that respondent may adopt a procedure for~~ ~~selecting better candidates. The Procedure of Short~~

:: 4 ::

Listing is well approved. The learned counsel for the  
applicant has not placed before us any material <sup>in to show</sup> that any  
candidate possessing less experience than the applicant  
has been selected for appointment. In the circumstances  
we do not find any good ground for interference.

The OA is accordingly rejected with no order as to  
costs.



MEMBER(A)



VICE CHAIRMAN

Dated: March 13th, 2002

UV/