

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 8th day of August, 2011

TA No. 03/2010
(SBCWP No.4791/1998)

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Dr. Yogeshwar Dayal Bansal
s/o late Shri Giridhar Lal Gupta,
r/o Village & Post Manpur,
Distt. Dausa, presently working as
Asstt. Professor (Senior Lecturer),
Swastha Vritta, Rajiv Gandhi Govt.
Ayurvedic College,
Paprola, Distt. Kangara (H.P.)

.. Applicant

(By Advocate : Shri Pradeep Singh)

Versus

1. National Institute of Ayurveda,
(Established by the Govt. of India),
through its Director,
Madav Vilas Palace, Amer Road,
Jaipur.
2. Secretary, Department of Indian System of
Medicine and Homeopathy,
Indian Red Cross Building,
Red Cross Road,
Opp. to Parliament House,
New Delhi.
3. Dr. Narain Singh Chudawat,
Associate Professor,
Deptt. of Swasth Vritta,

National Institute of Ayurveda,
Madhav Vilas Palace,
Amer Road,
Jaipur

.....Respondents

(By Advocate : Shri M.D.Agarwal)

ORDER (ORAL)

The applicant filed SB Civil Writ Petition No.4791/1998 before the Hon'ble High Court and the Hon'ble High Court disposed of and transferred the Writ Petition to this Tribunal vide order dated 10.2.2010 in view of the notification dated 22.4.2008 and the same was registered as TA No.3/2010.

2. The applicant in this TA claimed the following reliefs:-

"i) declaring impugned selection and appointment of the private respondent Sh. Narain Singh Chudawat be declared as illegal who does not possess necessary qualification and requisite experience for the appointment on the post of Associate Professor and thus lacks eligibility and suitability prescribed by the Central Council of Indian Medicine, and as such his selection and appointment as Associate Professor vide order dated 19.2.98 (Annexure-11) be quashed.

ii) Petitioner may be declared eligible, qualified and suitable for the appointment to the post of Associate Professor- "SWASTH VRITTA" and directions be given to respondent No.1 for giving him appointment as such, or in alternate directions be issued for offering him the post of Assistant Professor – "Swasth Vritta" in the vacancy caused by the selection and appointment of private respondent in view of the relaxation clause appended to the advertisement.

iii) Cost of the petition be awarded to the petitioner.



iv) Any other relief as may be deemed just and proper in the facts and circumstances of the case be also awarded in favour of the petitioner."

3. Brief facts of the case are that the applicant applied for the post of Associate Professor in response to the advertisement No. 1/1997 but was not selected for the aforesaid post and respondent No.3, Dr. Narain Singh Chudawat, was selected for the post of Associate Professor (Swastha Vritta). As per the advertisement (Ann.A/5), the required qualification and experience for direct recruitment is that one should have P.G. Qualification in Ayurveda in the concerned subject recognized by C.C.I.M./Ayurveda Vachaspati, M.D. (Ay.) of the University of Rajasthan in the concerned subject and under the head 'Desirable' Ph. D. in Ayurveda/Extensive experience in research and working knowledge in Hindi and English, besides the fact that one should have 5 years experience as Sr. Lecturer or Asstt. Professor in P.G. Teaching in the subject or 10 years combined experience in Post Graduate Teaching in the subject (As Assistant Professor/Lecturer) and Research. As per clause-12 the age and experience are relaxable by the appointing authority.

4. The applicant challenged the selection of respondent No.3 on the ground that respondent No.3 is not eligible to be



given appointment on the said post as per the office order dated 19.2.1998.

5. Per contra, the learned counsel appearing for the respondents has submitted that the applicant did not possess the P.G. teaching experience as required under the rules whereas respondent No.3 is found eligible as he was working in the Department of Swasth Vritta as Assistant Professor and prior to that as Lecturer and Demonstrator from 1980. Though he is a Post Graduate in Rasa Shastra but he had been working in the subject of Swasth Vritta and as per the provision at Sl.No.2 his U.G. experience in Swasth Vritta is deemed as P.G. experience. Further, he had the required 5 years of teaching experience as Assistant Professor in Swasth Vritta.

6. It is not disputed that during the pendency of this TA, respondent No.3 has been further promoted and the applicant is working somewhere in Himachal Pradesh. The applicant has not challenged provisions of advertisement No.1/1997 and since he has appeared and declared unsuccessful he is estopped to challenge the selection process.

7. As observed hereinabove that much water has already flown and respondent No.3 is further promoted from the post of Associate Professor to the post of Professor which has not been denied by the respondents, as such, looking to the facts



and circumstances of the case, at this stage, no ground is made out for canceling the selection of respondent No.3 and in our considered view, in comparison to the applicant, respondent No.3 was more meritorious and having requisite experience and qualification. Therefore, respondent No.1 and 2 have rightly selected respondent No.3 which requires no interference by this Tribunal.

8. Consequently, the TA being bereft of merit is dismissed with no order as to costs.

Anil Kumar

(ANIL KUMAR)
Admv. Member

K.S. Rathore

(JUSTICE K.S.RATHORE)
Judl. Member

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