

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 10th day of May, 2011

TRANSFER APPLICATION NO. 8/2009
IN
SB CIVIL WRIT PETITION NO. 4078/2006

CORAM

HON'BLE MR. JUSTICE K.S. RATHORE, JUDICIAL MEMBER
HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Dr. L.N. Sharma aged about 56 years, son of late Shri Badri Narainji Joshi, resident of House no. 3-123, Bank Colony, Murlipura Scheme, Jaipur.

.....Applicant

(By Advocate: Mr. C.B. Sharma)

VERSUS

1. Union of India through its Secretary, Ayurved, Unani Siddha and Homeopathy Department (Ayush), Red Cross Building, Red Cross Road, Near Sansad Bhawan, New Delhi.
2. Joint Secretary, Ayurved, Unani Sidha and Homeopathy (Ayush), Red Cross Building, Red Cross Road, Near Sansad Bhawan, New Delhi.
3. Central Council of Indian Medicine through its Secretary, 61-65, Institutional Area, Janakpura, in front of 'B' Block, New Delhi.
4. Dr. Mahesh Chand Sharma son of Shri Prahlad Sharma, resident of 41/48, Varun Path, Near Police Station (Thana), Mansarovar, jaipur.
5. National Institute of Ayurveda through its Director, Jorawar Singh Gate, Jaipur.

.....Respondents

(By Advocates:

Mr. Anurag Agarwal proxy to M.D. Agarwal- Respondent no. 1 to 3.
Mr. N.K. Mallo, Respondent no. 4.)

ORDER (ORAL)

The present TA has been preferred by the applicant for seeking the following reliefs:-



- "(i) by an appropriate writ, order or direction, the constitution of the Selection Committee be held illegal as the same was not constituted as per the rules for the post of Director, National Institute of Ayurveda, Jaipur.
- (ii) by an appropriate writ, order or direction, the private respondent namely Dr. M.C. Sharma be declared as an ineligible candidate to appear in the Selection for the post of Director, National Institute of Ayurveda, Jaipur.
- (iii) by an appropriate writ, order or direction, it may be declared that qualification of Ayurved Vachaspati consists of three years course alone is eligible qualification for the post of Director and to the extent of any repugnancy of the provisions, the central legislation alone be given precedence and the course only recognized with requirement of period as recognized by the CCIM be considered to be an eligible qualification for the post of Director, National Institute of Ayurveda, Jaipur. The selection on the post be declared held as illegal for want of proper selection committee.
- (iv) any other appropriate order or direction which the Hon'ble court may deem fit and proper in the facts and circumstances of the case, may also kindly be passed in favour of the petitioner.
- (v) cost of the writ petition be awarded in favour of the petitioner.

2. Learned counsel for the respondents raised the preliminary objection regarding the maintainability of the present TA that the applicant as well as respondent no. 4, Dr. Mahesh Chand Sharma, retired on attaining the age of superannuation. From the relief clause, it is evident that the applicant had prayed for a direction that the constitution of the Selection committee be declared illegal and to declare respondent no. 4, Dr. M.C. Sharma, as ineligible candidate to appear in the selection for the post of Director, National Institute of Ayurveda, Jaipur.



3. After examining the relief claimed by the applicant, it will be a futile exercise to consider the TA on merit as the applicant as well respondent no. 4 both had retired after attaining the age of superannuation. Thus we find no merit in the TA and the relief claimed by the applicant cannot be granted at this stage. Consequently, the TA being devoid of merit is hereby dismissed with no order as to costs.

Anil Kumar
(ANIL KUMAR)
MEMBER (A)

J. S. Rathore
(JUSTICE K.S. RATHORE)
MEMBER (J)

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