

**Central Administrative Tribunal  
Principal Bench**

**OA No.2311/2014  
MA No.3140/2015**

Arguments heard on : 01.12.2015  
Pronounced on : 09.12.2015

**Hon'ble Mr. Justice Syed Rafat Alam, Chairman  
Hon'ble Mr. P. K. Basu, Member (A)**

R. K. Grover  
Lab Technician  
Aged about 59 years,  
S/o Late Bhawani Dass  
R/o Flat No.20,  
Meera Bai Institute of Technology,  
New Delhi.

.... Applicant.

(By Advocate : Shri Sourabh Ahuja)

Versus

1. Govt. of NCT of Delhi  
Through its Chief Secretary  
Delhi Sachivalaya, Players Building,  
IP Estate,  
New Delhi-2.
2. Principal Secretary/Secretary  
(Technical Education)  
Directorate of Training & Technical Education,  
GNCT of Delhi  
Muni Maya Ram Marg,  
Pitam Pura,  
Delhi 88.
3. Deputy Director (E-1)  
Directorate of Training & Technical Education,  
GNCT of Delhi,  
Muni Maya Ram Marg,  
Pitam Pura,  
Delhi-88.
4. Joint Director (Technical)  
Directorate of Training & Technical Education,  
GNCT of Delhi  
Muni Maya Ram Marg,

Pitam Pura,  
Delhi-88.

5. Principal Secretary (Services)  
Govt. of NCT of Delhi,  
Players Building, IP Estate,  
New Delhi 110 002.
  6. Union Public Service Commission,  
Through its Chairman,  
Dholpur House, Shahjahan Road,  
New Delhi 110 001.
  7. Secretary  
Ministry of Human Resource Development,  
Union of India,  
North Block,  
New Delhi.
  8. AICTE  
Through its Member Secretary  
7<sup>th</sup> Floor, Chanderlok Building,  
Janpath,  
New Delhi.
- .... Respondents.

(By Advocates : Shri Amit Anand for respondent Nos.1 to 5.  
Shri Amit Yadav for Shri Ravinder Aggarwal for respondent  
No.6.  
Shri Gyanendra Singh for respondent No.7.  
Ms. Puja Sarkar for Shri Anil Soni for respondent No.8.)

### : O R D E R:

#### **Hon'ble Mr. P. K. Basu, Member (A):**

The applicant was appointed as Lab Technician (Medical Lab Technology) on 25.04.1975. MLT is a non-engineering discipline.

2. According to the applicant, the respondents had set up an Expert Committee under the Chairmanship of Professor P. J. Madan (Madan Committee) to examine the issue of revision of staff structure in the engineering institutions. The Madan Committee gave its report in 1978

thereby recommending that the future staffing pattern in technical institutions should be determined on the basis of the fundamental principal that the lowest formation in the teaching faculty should be Lecturers, both in Engineering Colleges and Polytechnics. The Committee felt that the major consideration in determining staff structure in Polytechnics should more or less be the same as for engineering colleges. In Polytechnics also, the Committee recommended that the Lecturers should form the lowest form of teaching faculty. The Committee noted that in view of the fact that at present a large number of people are in various institutions designated as Assistant Lecturers, Demonstrators, Senior and Junior Instructors etc., till full implementation of its recommendation takes place, as an interim measure to make necessary arrangements, to absorb the existing Teachers below the level of Lecturers. Some of them, who already fulfil the minimum qualifications for the post of Lecturer, could be adjusted against the new post of Lecturers created by the implementation of Committee's recommendation and those who do not fulfil these qualifications could be given adequate opportunities to improve their qualifications. The Department of Education, Ministry of Human Resource Development issued a letter dated 25.09.1987 based on the Madan Committee's report. However, it becomes clear that it was meant for teaching staff in engineering institutions/polytechnics as it is clearly mentioned in this letter that in regard to technical staff in non-teaching and other staff, a separate communication will follow in due course. In the letter dated 21.10.1978 of the Government of India, it had been clearly stated that the All India Council of Technical Education in its meeting held in May, 1974 has modified the

guidelines that in determining the work load of staff no distinction need to be made between the tutorial and laboratory work on one hand and lecture classes on the other.

3. It is further pointed out by learned counsel for the applicant that vide letter dated 10.12.1996 (Annexure A-7), essential qualification prescribed for part time lecturers in various disciplines have been indicated which also enclosed medical laboratory technology and the essential qualification has been shown as Bachelors Degree in appropriate branch or equivalent. The applicant's case is that since he did not have B.Sc (MLT) Degree , he applied to the respondents (GNCT of Delhi) to sponsor his name to the Registrar, Postgraduate Institute of Medical Education and Research, Chandigarh for undergoing B.Sc (MLT) course for three years duration. He was permitted and he successfully completed B.Sc (MLT) course in 1992. The applicant has annexed his B.Sc (MLT) Degree as Annexure A-10 (colly) to the OA. The applicant states that since he got his degree in 1992, he had enhanced his qualification during the window period of eight years as provided under the Madan Committee's recommendation in acquiring necessary qualification and, therefore, the respondents ought to have immediately upgraded the applicant to the post of Lecturer (MLT). The applicant further states that he had tried to obtain permission from the respondents for sponsoring his name under staff development scheme to undergo M.Sc. (MLT), but this was not granted to him.

4. The applicant claims that he was orally told by the respondents that his post cannot be upgraded to the post of Lecturer (MLT) as B.SC (MLT) is not a medical course and he was asked to get equivalence certificate from the Registrar of Punjab University that B.Sc (MLT) degree is equivalent to B.Sc (Medical) Degree. The applicant has produced a letter dated 20.03.1995 from the Registrar, Punjab University, Chandigarh, certifying that the B.Sc (MLT) Degree is equivalent to B.Sc (Medical) Degree of the University (Annexure A-12). The applicant then made representations to the respondents between 1994-1997 requesting that he be upgraded to the post of Lecturer (MLT) from due date in terms of Madan Committee's recommendation and consequential benefits, viz., enhancement of superannuation date from 60 to 65 years, senior scale, selection grade etc. be granted to him. However, this was not acceded to and rejected by the respondents vide order dated 08.05.1998 on the ground that the qualifications possessed by the applicant do not fall into the category of prescribed qualification in the relevant recruitment rules. Thereafter, the applicant made several representations and finally the respondents responded vide letter dated 12.07.2012 stating therein that the applicant is working on a supporting (Technical) staff post in Group 'C' cadre, whereas the personnel holding a teaching post in Group 'C' can only be upgraded to the lowest teaching rank in Group 'A' under the Madan Committee recommendation. Thus, it was concluded that the applicant does not fulfil the essential qualification for the post. Vide letter dated 13.05.2014, again, it was reiterated that the post of Lab Technician is a supporting staff post

and not a teaching post and further that the official concerned does not fulfil the required technical qualification for the upgraded post of Lecturer (MLT).

5. According to the applicant, the Recruitment rules for Lecturer (MLT) came into force on 01.01.1996. These Recruitment Rules prescribe M.Sc (MLT) as the minimum qualification for the post of Lecturer (MLT) but in their letter dated 12.10.1996, the essential qualification for part time Lecturers in MLT discipline is shown as bachelors' degree in appropriate branch or equivalent.

6. It is further stated by the applicant that the respondents have extended the benefit of Madan Committee's report to faculty members of Engineering courses who enhanced their educational qualification and these officials were upgraded to the post of Lecturer and granted senior scale selection grade but the applicant was denied this benefit and granted only benefit of upgradation under the Modified Assured Career Progression Scheme instead of senior scale selection grade etc.

7. Learned counsel for the applicant further argued that the respondents had taken teaching work from the applicant and in this regard a certificate issued by the Head of the Department, Medical Laboratory Technology of the Institute in which he was working is produced as Annexure A-4 wherein the nature of duties of the applicant includes "teaching bio-chemistry to the medical laboratory technology students". He has also produced a letter dated 17.05.2002 of Meera Bai Polytechnic which is a letter written to the Professor, MAMC, New Delhi intimating that he is appointed as an External

Examiner (Practical) for Diploma Court in Medical Lab Technology (MLT) in which the Internal examiner for the same subject is shown as the applicant. He further drew our attention to the letter dated 07.03.1989 of the Ministry of Human Resource Development, Government of India through which the Government had granted one time relaxation in prescribed qualification of notified recruitment rules in order to upgrade absorb those teachers in Polytechnic to the post of Lecturers who possessed alternative qualification already approved by All Indian Council for Technical Education, i.e., diploma in appropriate branch of engineering plus technical teachers training institute and 5 years teaching/professional experience. Further, our attention was drawn to letter dated 25.12.1980 (page 297 of the OA) wherein it is mentioned that the applicant is also teaching medical laboratory technology students the subject of histopathology and cytopathology.

8. To summarise, the applicant's case is that Madan Committee gave an avenue to officials like him to be upgraded to Lecturers post by acquiring higher degree which he did acquire, the Degree of B.Sc (MLT) in 1992, and, therefore, as per the Madan Committee recommendation and Government of India policy based on that his post should also have been upgraded to that of Lecturer. The Government's arguments that he does not have the qualification required for the post of Lecturer, i.e., M.Sc (MLT) arises only after 01.01.1996 when the RRs were notified prescribing M.Sc (MLT) as the minimum qualification. Therefore, he cannot be denied that benefit on this ground.

9. Learned counsel for the respondents, first of all, raised the preliminary objection that the applicant has approached this Tribunal after considerable delay. His prayer was rejected way back on 08.05.1998 whereas the applicant has approached this Tribunal only in July, 2014 which cannot be condoned on the ground of letter dated 30.05.2014 issued by the respondents with reference to the applicant's representation dated 29.01.2014 and 14.03.2014, as in a catena of cases, the Hon'ble Supreme Court has held that aggrieved party should approach the court within the statutory period prescribed. In this regard, the following judgments are relevant:-

- “(i) ***State of Punjab vs. Gurdev Singh*** (1991) 4 SCC 1.
- (ii) ***UOI vs. Ratan Chandra Samanta*** JT 1993 (3) SC 418.
- (iii) ***Harish Uppal vs. UOI*** JT 1994 (3) SC 126.
- (iv) ***Ajay Walia vs. State of Haryana & ors.***, JT 1997 (6) SC 592, where the Hon'ble Supreme Court held as follows:-

“Representation repeatedly given to various authorities do not furnish fresh course of action to file Writ Petition. The High Court is wholly unjustified to have entertained and allowed the Writ Petition.”

10. On merits of the case, learned counsel for the respondents argued that as per the Recruitment Rules, the essential qualification for the post of Lab Technician (MLT) is M.Sc (MLT) and since the applicant does not possess this qualification, he cannot be considered for the post of Lecturer (MLT), even if for arguments sake, he is considered as a teaching staff. However, it was clarified that the post of Lab Technician is not a teaching post and is only a supporting staff as per norms and standards for



polytechnics issued by AICTE in August, 1990 and, therefore, the Madan Committee report and the consequent Government order dated 25.09.1987 do not apply in the applicant's case and he cannot be upgraded as Lecturer. The AICTE Notification dated 30.12.1999 which provides for enhancement of age of superannuation to 65 years applies to the teaching staff only not to the supporting staff.

11. Heard learned counsel for the parties and perused the respective records of the case.

12. The short issue before us is whether the applicant is eligible to be upgraded as Lecturer (MLT) or not?

13. First of all, we find merit in the argument of learned counsel for the respondents that this OA is hopelessly time barred. The applicant's prayer was rejected way back in 1998, at which time the applicant did not approach this Tribunal. By filing representations from time to time, he has sought to keep the issue alive and now on the ground that the last representation was rejected vide order dated 30.05.2014 it is claimed that there has been no delay. As discussed above, the law settled by the Apex Court in the matter of **Ajay Walia** (supra) is very clear and just by filing representation limitation cannot be overcome. Therefore, on the ground of limitation itself, this OA is not maintainable. However, even on the merits of the case, we find that the recommendation for staff restructuring and one time measure of allowing staff without qualifications to acquire the qualification and get absorbed as Lecturer (MLT) was for teaching staff and

not for non teaching staff. In fact, the post mentioned in the report of Madan Committee for such benefit was Assistant Lecturers, Demonstrators, Senior and Junior Instructors etc. whereas the Lab Technicians were not mentioned. Moreover, the order dated 28.09.1989 makes it very clear that subordinate non teaching staff was not covered by this letter.

14. Therefore, there is no basis at all for the claim made by the applicant. However, as stated earlier, even if for arguments sake, his post is treated as teaching post he does not possess the qualification as per RR, i.e. M.Sc (MLT). The argument of the applicant that he applied for sponsorship for M.SC course and was not granted permission and, therefore, it is not his fault is countered by the respondents saying that as per the records available the applicant has not applied for sponsoring his name for the staff sponsored under the M.Sc (MLT). The applicant has also not furnished any documentary proof in support of his claim. In any case, we cannot get into this issue, neither it is relevant as unless he obtains the M.Sc Degree he cannot be considered for Lecturer (MLT), even if Lab Technician is considered as a teaching post. However, as made clear by AICTE in their affidavit that as per their guidelines, Lab Technician is a supporting staff. As such, there is no question of applicant's claiming the Lecturer (MLT) post.

15. Therefore, we are of the opinion that there is no merit in the claim of the applicant and the OA deserves to be dismissed, not only on the ground of delay but also on merit. The OA is accordingly dismissed.

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16. By means of this application, the applicant has prayed that he be allowed to occupy the house allotted to him till the disposal of the OA and vide order dated 22.09.2015 we had directed that no coercive steps should be taken against the applicant and the said interim order is continuing till date.

17. In view of the fact that it may cause serious hardship to the applicant if he is immediately asked to vacate his flat, especially since we are in the mid of the academic session, we provide that the respondents shall consider to permit him to continue in the house allotted to him till 31.03.2016, provided he gives an undertaking in writing that he shall not seek further extension and hand-over the vacant possession of the house to the authorities positively on 01.04.2016.

18. With the above observation, this MA stands disposed of.

**(P. K. Basu)**  
**Member (A)**

**(Syed Rafat Alam)**  
**Chairman**

/pj/