

**Central Administrative Tribunal
Principal Bench
New Delhi**

**OA No.3744/2016
MA No.3085/2018**

Order Reserved on : 26.07.2018
Pronounced on : 31.08.2018

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Dr. Jitender Sodhi S/o late R. K. Sodhi,
R/o 17, G.T.B. Colony, Model Town,
Panipat, Haryana-132103.
2. Dr. Laxmitez Wundavalli S/o Satya Narayana
Wundavalli,
R/o D-406, Vasathi Anadi,
Peerancheruvu Ranga Reddy,
Hyderabad-500008.
3. Dr. Sheetal Singh W/o Dr. Rajiv Goel,
R/o 148, Shakti Vihar, Pitampura,
New Delhi-110034. Applicants

(Candidates for the post of Assistant Professor of Hospital
Administration in All India Institute of Medical Sciences)

(By Mr. Ajesh Luthra and Ms. Eshna Kumar, Advocates)

Versus

1. All India Institute of Medical Sciences
through its Director,
Ansari Nagar,
New Delhi-110029.
2. Medical Council of India
through its Secretary,
Pocket 14, Sector-8,
Dwarka Phase-I,
New Delhi-110077.

3. Dr. Kanika Jain
R/o F-11/6, Model Town Part-II,
Delhi-110009.
4. Medical Superintendent,
Room No.10, Old Private Ward Block,
All India Institute of Medical Sciences,
Ansari Nagar, New Delhi-110029.
5. Head of Department,
Department of Hospital Administration,
Room No.6A, Ground Floor, MS Office Wing,
All India Institute of Medical Sciences,
New Delhi-110029.
6. National Board of Examinations
through its Director,
Ministry of Health and Family Welfare,
Government of India, Ansari Nagar,
New Delhi. ... Respondents

(By Mr. Mukul Gupta, Sr. Adv., Mr. G. D. Chawla, Ms. Puja Sarkar, Mr. T. Singhdev, Mr. Abhijeet Chakravarty, Mr. V. S. R. Krishna, Mr. Sanjiv Joshi, Mr. Kirtiman Singh, Mr. Waize Ali Noor, Mr. Prateek Dhanda and Mr. Vikramaditya Singh, Advocates)

O R D E R

Justice L. Narasimha Reddy, Chairman :

The applicants challenge the selection and appointment of Dr. Kanika Jain, the 3rd respondent, as Assistant Professor of Hospital Administration in the All India Institute of Medical Sciences (AIIMS), New Delhi. The relevant facts, in brief, are as under.

2. The applicants are Post Graduates in Medicine. The AIIMS issued advertisement No.2/2016 inviting applications for Assistant Professors in various disciplines, and Lecturers in Nursing, on regular basis. Four posts of Assistant Professor of Hospital Administration were also advertised, and out of that one post is unreserved, one is reserved for ST and two for OBC (backlog). The applicants, the 3rd respondent, and various others submitted applications.

3. The applicants contend that though the 3rd respondent did not possess the requisite qualification, she has been selected and appointed as Assistant Professor of Hospital Administration. According to them, the 3rd respondent did not possess the qualification of MD in Hospital Administration, and though she pursued the DNB course, she did not put in the requisite length of service/experience in the context of equation with MD qualification.

4. The 1st respondent filed a detailed counter affidavit. It is stated that initially the qualification held by the 3rd respondent was treated as equivalent to MD, but on further verification, it emerged that it does not accord with the one

prescribed under the relevant rules, as well as the advertisement.

5. The 3rd respondent opposed the OA stating that it is only on being satisfied that she holds the prescribed qualification, that she has been appointed, and that the contention advanced by the applicants does not merit consideration.

6. We heard Ms. Esna Kumar and Mr. Ajesh Luthra, learned counsel for the applicants, and Mr. Mukul Gupta, Senior Advocate, Mr. G. D. Chawla, Ms. Puja Sarkar, Mr. T. Singhdev, Mr. Abhijeet Chakravarty, Mr. V. S. Krishna, Mr. Sanjiv Joshi, Mr. Kirtiman Singh, Mr. Waize Ali Noor, Mr. Prateek Dhanda, and Mr. Vikramaditya Singh learned counsel for the respondents.

7. One of the posts advertised in the year 2016 by the 1st respondent is Assistant Professor of Hospital Administration. The qualifications for that post are stipulated as under:

- “i) Same as for Assistant Professor of Anaesthesiology at Post Code No.2 above.
- ii) A postgraduate qualification i.e. M.D. in Hospital Administration or a recognized qualification equivalent thereto.

OR

Master's in Hospital Administration from an MCI recognized Institution/University or a recognized qualification equivalent thereto.

iii) Three years teaching and/or research experience in Hospital Administration in a recognized Institution after obtaining the qualifying postgraduate degree of MD in Hospital Administration or Master's in Hospital Administration (MHA) or a recognized qualification equivalent thereto."

The first condition refers to the qualifications stipulated for the post of Assistant Professor of Anaesthesiology. That, in turn, reads as under:

"i) A medical qualification included in Schedule I & II or Part II of the third Schedule of the Indian Medical Council Act 1956 (candidates possessing the qualifications included in Part-II of the third Schedule should also fulfill the conditions specified in Section 13(3) of the Act)."

8. The applicants claim to be holding not only the qualification of MD in Hospital Administration, but also three years' teaching experience in Hospital Administration in a recognized institution, after obtaining the postgraduate degree in Hospital Administration. It is not denied that the 3rd respondent does not hold the postgraduate degree, i.e., MD in Hospital Administration. On the other hand, she pleaded that

she holds a postgraduate degree, which is a recognized qualification equivalent to MD in Hospital Administration. For this purpose, it needs to be verified as to whether she holds an equivalent degree,

9. The equivalence of the undergraduate and postgraduate degrees in medical education is in the exclusive purview of the Medical Council of India, i.e., the 2nd respondent. It framed the "Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998", in exercise of the powers under Section 33 of the Indian Medical Council Act, 1956. The 3rd respondent held the DNB degree. The provision relating to equivalence of the DNB degree, was incorporated through an amendment vide notification dated 11.06.2012. The relevant provision reads as under:

(ii) Equivalence of qualification of DNB (broad specialities) with MD/MS & DNB(super-specialities) with DM/M.Ch.

(a) Those candidates who have undergone DNB training in an institution which now run MCI, recognized postgraduate degree courses in a given subject, their DNB qualifications shall be considered at par with MCI recognized qualifications that subject only.

(b) Those candidates who have undergone DNB training in a multi speciality teaching

hospital with at least 500 beds, involved in various postgraduate/super-speciality teaching programmes provided that the one out of three DNB supervisors (teachers) qualify as postgraduate teacher as per MCI norms in their previous appointment, and one out of remaining two should qualify as postgraduate teacher as per MCI regulations with the following bed requirement for teaching unit:

Postgraduate broad specialties	30 beds per unit	50 beds should be teaching beds
Postgraduate superspecialties	20 beds per unit	

Such qualifications shall be considered at par with MCI recognized qualification.

(iii) Additional training of one year for equivalence of qualification of DNB (broad specialties) with MD/MS & DNB (super-specialties) with DM/M.Ch.

Those candidates who have undergone DNB training (both broad specialties and superspecialties) in hospital/institution other than mentioned in (ii) above, shall undergo one additional year of senior residency or equivalence training or research job in a MCI recognized hospital/institution, provided such qualifications are notified in the Postgraduate Medical Education Regulations, 2000”.

10. From a perusal of this provision, it becomes clear

that –

- (i) if the DNB course is pursued in an institution, that runs MCI recognized postgraduate degree course in

a given subject, it shall be considered at par with MCI recognized qualification in that subject only; and

(ii) if the training leading to DNB is in a multi-specialty teaching hospital with at least 500 beds, in various postgraduate super-specialty teaching programmes, it would become equivalent to the MCI recognized qualification, subject to condition mentioned in sub-clause (b).

11. Though the 3rd respondent claims to have undergone the study in an institution, running MCI recognized postgraduate degree course, it ultimately emerged that the one where she studied the course, is not an institution of that category. To meet the situation of this type, the MCI has stipulated clause (iii) extracted above. It is to the effect that if the training leading to DNB was in a hospital which is not recognized by MCI, the candidate must undergo one additional year of senior residency or equivalent training or research job in an MCI recognized hospital/institution, provided that such qualifications are notified in the Postgraduate Medical Education Regulations, 2000. To be precise, if a candidate

obtained a DNB certificate on the basis of training in a hospital not recognized by MCI, the DNB would become equivalent to MD if only an additional year of residency, that too in an MCI recognized hospital, is undergone by the candidate.

12. The qualifications prescribed by MCI as well as the Regulations made by it for equivalence are very clear in their purport. The applicants have filed adequate material to demonstrate that the hospital where the 3rd respondent has undergone training for obtaining DNB certificate is not an MCI recognized one. To make-up the deficiency in this behalf, the 3rd respondent was required to undergo residency of one additional year in an MCI recognized hospital. In other words, the total training must be four years, out of which one year shall be in an MCI recognized hospital. It is not in dispute that the 3rd respondent did not undergo this type of training or residency. The inescapable conclusion is that the selection and consequential appointment of the 3rd respondent is vitiated.

13. We, therefore, allow this OA, and set aside the appointment of the 3rd respondent as Assistant Professor of Hospital Administration. Respondent No.1 shall fill the vacancy with the next available candidate from the concerned

category, in the select/merit list. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/