

**Central Administrative Tribunal  
Principal Bench**

**OA No.1030/2015  
MA No.302/2018 and MA No.303/2018**

New Delhi, this the 3<sup>rd</sup> day of April, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Mohd. Jamshed, Member (A)**

K.S. Shivaramu (Lecturer)  
S/o Late Sh. Siddaiah  
R/o Quarter No.42, ITI Campus  
Sunlight Colony, Ring Road  
Maharani Bagh, New Delhi-110014.  
Aged Around 52 years. ...Applicant

(By Advocate : Shri Ajesh Luthra)

**Versus**

1. Govt. of NCT of Delhi  
Through its Chief Secretary  
Delhi Sachivalaya, Players Building  
I.P. 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. Selection/Screening Committee  
Through its Chairman  
Principal, GB Pant Govt. Engineering College  
Okhla Industrial Estate, Phase-III  
New Delhi-110020.
4. All India Council for Technical Education  
Through its Secretary  
7<sup>th</sup> Floor, Chanderlok Building, Janpath  
New Delhi. ...Respondents

(By Advocate : Shri Anuj Kumar Sharma)

## ORDER (ORAL)

### **Justice L. Narasimha Reddy:**

The applicant worked as a Lecturer in a Private Polytechnic in the State of Karnataka between 04.10.1991 and 16.04.2001. The Delhi Government intended to appoint Lecturers in various Polytechnics through UPSC. A notification in this behalf was issued and the applicant responded to the same. He was selected and appointed by the respondents as Lecturer on 20.04.2001.

2. The guidelines issued by the AICTE in the year 1999 provide for extending the benefit of Career Advancement Scheme(CAS) to the Lecturers in Polytechnics. As a first step, a Lecturer who has put in six years of regular service becomes entitled to be put in the Senior Time Scale. On completion of 11 years, he becomes entitled to be put in the Selection Grade. The applicant was extended such benefits w.e.f. 2007 and 2012 respectively. His contention, however, is that the service rendered by him in the private Polytechnic between 04.10.1991 to 16.04.2001 is

required to be taken into account, and in such an event, he would become entitled to be extended the benefit of Senior Time Scale and Selection Grade w.e.f. 1997 and 2012 respectively.

3. On an earlier occasion, the applicant filed OA No.714/2014 in this behalf. The OA was disposed of directing the respondents to pass a reasoned order on the representation submitted by him. In compliance thereof, the respondents passed an order dated 12.12.2014 rejecting the case of the applicant on the ground that he did not hold the qualification prescribed for the post, by the AICTE when he was appointed. The same is challenged in this OA.

4. The applicant contends that he was appointed by the K.V.G. Polytechnic, Sullia, Karnataka in the year 1991 on being satisfied about his qualifications and that even when he was selected by the UPSC, there was no doubt about his qualification. He contends that though the qualification prescribed under the AICTE guidelines is 1<sup>st</sup> Class degree in BE and he was possessing 2<sup>nd</sup> class degree, he is entitled to the benefit under the circular issued in the year 1996

which provided for relaxation of qualification in respect of Lecturers appointed before 01.01.1996. Reliance is placed upon the judgment of the Hon'ble Delhi High Court in WP(C) No.2080/2017 dated 30.03.2017.

5. On behalf of the respondents, a detailed counter affidavit is filed. They submit that the applicant was extended the benefit of Senior Time Scale and Selection Grade on completion of 6 years and 11 years of service and the question of counting of his past service, rendered in private institution, would arise if only he held the qualification prescribed for direct recruitment, as mentioned in the guidelines, issued by the AICTE. According to them, the applicant did not possess the said qualification and in that view of the matter, he was not extended the benefit. It is also stated that similar claims made by other Lecturers were rejected.

6. We heard Shri Ajesh Luthra, learned counsel for the applicant and Shri Anuj Kumar Sharma, learned counsel for the respondents, in detail.

7. The relevant facts, borne out of record, are not in dispute. The applicant worked as a Lecturer in a private Polytechnic between 04.10.1991 to 16.04.2001 and he was appointed as Lecturer by the Delhi Govt. on 20.04.2001. It is also not disputed that he possessed a Bachelor's degree in Engineering with 2<sup>nd</sup> class.

8. The AICTE issued guidelines from time to time, in the context of extending various benefits to the teaching staff in the Technical Institutions at the Diploma Degree levels. On 30.12.1999, a set of guidelines was issued by the AICTE. These provide for extension of different kinds of benefits, such as Senior Time Scale and Selection Grade, on completion of 6 and 11 years of service respectively. The manner in which the qualifying service for the purpose of CAS is to be counted, is dealt with in Clause 9. While Sub Clause 1 stipulated general conditions, Sub Clause 2 thereof indicated the manner in which the service rendered, outside the institution is to be counted. The Clause reads as under:-

## "9.0 COUNTING OF QUALIFYING SERVICE FOR CAREER ADVANCEMENT

### 9.1 Counting of Service within the present Institution:

The duration of service in a temporary capacity/contract appointment/ad-hoc appointment/leave vacancy can be counted for promotion to Senior Scale/Selection Grade provided that:

- (a) the tenure of such appointment was one year or more than one year without any break
- (b) The incumbent was appointed on the recommendations of a Selection Committee constituted in accordance with the prescribed selection procedure as laid down by concerned Board of Governors/ Institution's regulations/Directorate of Technical Education/ State Government/ Central Government.
- (c) the concerned Lecturer possessed the minimum qualifications prescribed by AICTE for appointment as Lecturers;
- (d) the incumbent was selected to the regular post in continuation of service in a temporary capacity/ contract appointment/ ad hoc appointment/ leave vacancy without any break.

### 9.2. Counting of Service Outside the Institution:

Previous continuous services, as a Lecturer or equivalent in college, national laboratory, or other scientific organisations such as CSIR, ICAR, DRDO etc., or in any Public Sector Industrial Undertaking, may be counted for placement of Lecturers in Senior Scale/Selection Grade provided that:

- (a) the posts were in an equivalent grade/scale of pay as the post of a Lecturer;
- (b) the qualifications for the posts were not lower than the qualifications prescribed by AICTE for the post of Lecturer;
- (c) the posts were filled in accordance with the prescribed selection procedures as laid down by the Board of Governors/Institution's regulations/Directorate of Technical Education/ State Government/Central Government;
- (d) ad hoc service/ service in contract appointment/ leave vacancy was of a continuous duration of not less than one year and further provided that:
  - (i) the incumbent was appointed on the recommendation of a duly constituted Selection Committee; and
  - (ii) The incumbent was selected to the regular post in continuation of the ad hoc /contract/temporary appointment
- (e) The concerned Lecturer has possessed all the minimum qualifications prescribed by AICTE for appointment as Lecturers.”

9. From a perusal of the Clause extracted above, it becomes clear that the benefit of CAS can be extended only when a Lecturer possessed the qualification prescribed by the AICTE for appointment as Lecturer. It is not in dispute that the qualification for

appointment of Lecturers as prescribed in the AICTE is 1<sup>st</sup> class degree in Engineering. In the context of counting the service of a candidate rendered outside the institution, Clause 9(2)(e) becomes relevant. Here again, it is mentioned that the candidate must possess all the qualifications prescribed by AICTE.

10. Admittedly, the applicant did not possess that qualification. In Clause 16, under the heading of "Other Terms and Conditions of Service of Teachers", it was clearly mentioned that the implementation of the revised scales will be subject to the acceptance of all the conditions mentioned in the scheme, including that of revised qualifications and recruitment procedures and other conditions stipulated by the AICTE, in this behalf. It reads as under:

"16.1 General

- (a) The implementation of the revised scales will be subject to the acceptance of all the conditions mentioned in the scheme including revised qualifications and recruitment procedures as well as of the other terms and conditions issued by the AICTE in this behalf.

11. Not only the qualifications which were relevant when the employee was appointed but also those which came to be revised, were made applicable.

12. In Writ Petition No.2080/2017, the Hon'ble Delhi High Court dealt with a case in which a Lecturer was appointed in the year 1992 in a private Institution and he was appointed by the Delhi Govt. in the year 1995. The Lecturer was extended the benefit of Senior Time Scale and Selection Grade and it was under a different set of rules. The 1999 Regulations framed by the AICTE were not in place, by the time his case was considered. It is difficult to discern any principle of law from the judgment. The relief was granted mostly on the facts of the case.

13. In OA No.2334/20015, this Tribunal had an occasion to deal with the issue similar to the one, in hand. The applicant therein did not possess the prescribed qualifications and claimed benefit of relaxation. Dealing with that stipulation, the Tribunal held as under:-

"17. It is an admitted position that the applicant initially joined Rajasthan Government on 12.07.1995. She joined as

Lecturer (English) in DTTE on 13.07.2000. We are of the opinion that one time relaxation will not be applicable to the applicant as she has only been appointed to the services of the DTTE in the year 2000 while this relaxation has been granted to those teachers who came in service prior to January 1, 1996. Hence, the applicant is not entitled to avail this relaxation for the purpose of career advancement. Besides, we also take note of the provision 9.2 in respect of counting of services outside the institution, which has already been referred to in para 2 of this order. Even a plain reading of this provision makes it clear that the entitlement of counting of past services outside the institution will only arise where certain qualifications are fulfilled. As per provision contained in 9.2 (b), qualifications for the posts were not lower than the qualifications prescribed by AICTE for the post of Lecturer. In the instant case, we have already found that admittedly qualifications of the applicant were lower than that prescribed by the AICTE. Hence, the guillotine of 9.2(b) comes into play and effectively blocks the path of the applicant. This is further buttressed by the same provision providing that lecturers should have possessed the minimum qualifications prescribed by the AICTE for appointment as Lecturers.

18. In consideration of the above facts, we find that the applicant was not possessing qualifications as prescribed by AICTE for appointment as Lecturers. Moreover, her appointment was made in the year 2000 i.e. well after the year 1996. Hence, she is not entitled to avail of the relaxation clause contained in 9.2(b) of the Circular dated 30.12.1999 which provides the relaxation only to those teachers who were already in service prior to January 1, 1996.

19. In conspectus of the facts and circumstances of the case, we find no merit in the instant OA and the same stands dismissed leaving the parties to bear their own costs.”

14. The OA was dismissed. The same situation obtains in this case also. Once, it is not in dispute that the applicant did not possess the prescribed qualification, the question of counting his past service in a private Institution does not arise.

15. In Ajit Kumar Kakoti's case in W.P(C) No.2973/2006, the Guwahati High Court has taken the view that a candidate possessing 2<sup>nd</sup> class degree in Engineering, when he joined the service of Polytechnic, is not entitled for the benefit of CAS. Specific reference was made to Clause 9 of the Regulations framed by the AICTE through notification dated 30.12.1999.

16. Further, the doubt that has arisen in this case has been put on rest with the clarification issued by the AICTE itself. In its Notification dated 04.01.2016, the AICTE clarified that there is no question of relaxation

of the qualifications in the context of extending the benefit under the CAS.

17. We do not find any merit in the OA. It is accordingly dismissed.

**( Mohd. Jamshed ) (Justice L. Narasimha Reddy)**  
**Member (A) Chairman**

/vb/