



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No. 4673/2018

New Delhi, this the 27th day of November, 2019

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

Prof. (Dr.) Rajeev Sood,
Dean, PGIMER, Group A, SAG,
Dr. Ram Manohar Lohia Hospital,
Age 59 years,
151 Club Road, W4/33,
Sainik Farms,
New Delhi – 110018.

...Applicant

(By Advocate: Mr. Soayib Qureshi)

Versus

1. Union of India,
Through Secretary,
Ministry of Health and Family Welfare,
Nirman Bhavan,
New Delhi – 110001.
2. Dr. Ram Manohar Lohia Hospital,
Post Graduate Institute of Medical Education
and Research,
Baba Khark Singh Marg,
Near Gurudwara Bangla Sahib,
Connaught Place, New Delhi – 110001.
3. Dr. Atul Goel,
Director – Professor (Medicine),
Lady Hardinge Medical College,
C-604, Shaheed Bhagat Singh, Road, DIZ Area,
Connaught Place,
New Delhi, Delhi.

...Respondents



(By Advocate: Mr. Ravinder Kr. Sharma for Respondent No. 01, Mr. Hanu Bhasker for Respondent No. 02 and Ms. Charu Ambwani for Respondent No. 04)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman:-

The applicant is working as Head of Department (HOD) (Urology) at Postgraduate Institute of Medical Education and Research (PGIMER), Dr. Ram Manohar Lohia Hospital, the 2nd respondent herein. He was also appointed as incharge Dean, through order dated 24.02.2015 in addition to his existing work of HOD.

2. The respondents passed an order dated 10.12.2018 appointing the 3rd respondent herein as Dean of the 2nd respondent Institute, with immediate effect and until further orders. The same is challenged in this OA.

3. The applicant contends that there is no regular post of Dean in the 2nd respondents Institute and with a view to comply with the requirements of Medical Council of India (MCI), an arrangement was made and, accordingly, he was posted as in-charge of that post in the year, 2011. He contends that once he is continuing as Dean,



albeit on in-charge basis, there was no necessity for appointing the 2nd respondent in his place. It is stated that the applicant is not from the 2nd respondent Institute, and that the law does not permit an outsider, to be posted as Dean in the 2nd respondent. Various other contentions are also urged.

4. The 1st Respondent filed a detailed counter affidavit. It is stated that the 2nd Respondent as well as two other colleges in Delhi are established and are being administered by Ministry of Health and Family Welfare. According to them, there is no regular post of Dean in the 2nd Respondent Institution and with a view to ensure compliance with the guidelines framed by the MCI, an arrangement was made; and in the process the applicant was kept in-charge. It is stated that in the context of appointment of Dean, it is only a Doctor from teaching sub cadre, who is eligible and that the applicant is from non-teaching sub cadre. The respondents further state that though some non-teaching officers are conferred with the status of teaching, it is only for limited purpose and there is no inter-changeability between the two sub-



cadres. Various other contentions urged by the applicant are denied by the respondents.

5. We heard Mr. Soayib Qureshi, learned counsel for the applicant and Mr. Ravinder Kr. Sharma for Respondent No. 01, Mr. Hanu Bhasker for Respondent No. 02 and Ms. Charu Ambwani for Respondent No. 04. There is no representation for Respondent No. 03.

6. The entire issue is about the appointment to the post of Dean in the 2nd Respondent institution. The two Postgraduate Institutions, namely, the 2nd Respondent and VMMC-Safdarjung Hospital have been established in the recent past; whereas the Lady Hardinge Medical College was existing for the past several decades. It is stated that the post of Dean in the first two Institutions is yet to be created and with a view to continue the work, ad-hoc arrangements were made. Another aspect which needs to be taken note of, is that the distinction between teaching and non-teaching sub-cadres. The method of selection and the service conditions of both are different. Though for certain purposes, members of



-non-teaching sub-cadre are also conferred designation referable to the teaching sub cadre, that is for a limited purposed. The applicant is from non-teaching sub cadre. He was made in-charge of the post of Dean of the 2nd Respondent through an order dated 24.02.2015. It reads as under:-

“ Sub: Assigning the additional charge as Dean in PGIMER.

Sir,

I am directed to refer to letter NO. 3-2/2013-Admn/PGIMER dated 6th March, 2014 on the above subject.

2. This matter has been examined in this Directorate and it has been decided that Dr. Rajeev Sood, Head of Department (Urology) may be given the charge of the post of Dean, PGIMER in addition to his own work without any extra numeration.

This issues with the approval of DGHS.”

7. It is evident that he was made in-charge. It was not even mentioned that he was appointed on ad-hoc or temporary basis. The respondents vehemently contend that the first respondents insisted that the post of Dean can be held only by a Doctor from teaching sub cadre. Obviously, because the persons of requisite qualifications are not available in their Institution they have



chosen the Respondent No. 03 through the impugned order. It reads as under:-

“ORDER

With the approval of the Competent Authority, Dr. Atul Goel, Director-Professor (Medicine), Lady Hardinge Medical College is hereby designated as Dean of PGIMER, Dr. RML Hospital, New Delhi vice Dr. Rajeev Sood, Consultant (Urology), with immediate effect and until further orders.

2. Charge assumption report in respect of the above officer may be obtained and sent to the Ministry.”

8. The claim of the applicant could have been considered, if only, there exists a clear post of Dean in the 2nd Respondent and he was otherwise eligible to be appointed. It has already been mentioned that regular post of Dean does not exist in the 2nd respondent institute, as of now. The Post of Dean is required to be handled by a member of Teaching sub-cadre and the applicant does not belong to that. The whole arrangement is temporary, or ad-hoc, in nature. It is more, a step for compliance with the requirement of MCI is required to be ensured.

9. An attempt is made by the learned counsel for the applicant to convince us that a Dean in a medical college is an administrative post and there is no prohibition against non-teaching sub



cadre from holding it. He draws this inference from OM dated 19.07.2016. A close perusal of the same discloses that it was in context of prohibiting the Doctors, who crossed the age of 62 years, from holding the administrative posts. The mere fact that the post of Dean was included in that list does not by itself, lead to any conclusion that non-teaching Doctors are entitled to hold it. Much would depend upon the relevant service rules.

10. We do not find any merit in the claim of the applicant. The OA is accordingly, dismissed. We are, however of the view that the 2nd Respondent cannot afford to be without a regular post of Dean. The steps for creation of the post need to be taken at the earliest. As and when, the post is created, the same shall be filled strictly in accordance with the rules that govern it. There shall be no order as to costs.

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

/ankit/