
(2010) 01 SHI CK 0067
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 1215 of 2002

Dr. Guru Dutt Sharma

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 05-01-2010

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2010) 01 SHI CK 0067

Hon'ble Judges : Surjit Singh, J; Surinder Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Surjit Singh, J.—Petitioner has invoked the jurisdiction of this Court, under Articles 226 and 227 of the Constitution of India, for judicial review of the order dated 10th May, 2001 of H.P. State Administrative Tribunal (now abolished), whereby his Original Application as also the Original Application filed by one Dr. Vineet Aggarwal, Petitioner in CWP No. 917 of 2001, have been dismissed and their prayer for issuing a direction to the Respondents to count their service, for the purpose of experience certificate, from 13.3.1997, has been rejected. By the same order, one more Original Application filed by Dr. Sanjeev Sharma and others had also been disposed of.

2. Dr. Vineet Aggarwal, who filed Civil Writ Petition No. 917 of 2001, seeking review of aforesaid order of the Tribunal, is not present today. Counsel engaged by him, has been appointed as Additional Advocate General. On the last date, when the matter was listed before us, we had ordered the issuance of notice of actual date of hearing to him. Despite service of that notice, he is not present nor has he engaged any other counsel to represent him. So, his petition is dismissed in default.

3. Facts relevant for the disposal of writ petition of Dr. Guru Dutt Sharma, may be noticed. Petitioner was appointed as doctor on general duty in Zonal Hospital,

Dharamshala in the year 1983. The hospital was re-designated as Dr. Rajinder Prasad Government Medical College, on 13.3.1997. In fact, college was not established in the year 1997. Permission for setting up the college was granted by the Indian Medical Council on 14.1.1999. Before grant of recognition, the Indian Medical Council visited Dharamshala several times. Practice followed by the Indian Medical Council for the grant of recognition is that it satisfies itself about the infrastructure, including the teaching staff available with the college. To meet the aforesaid requirements, Government of Himachal Pradesh appointed Petitioner as Lecturer in medicine on 12.8.1998 vide Annexure P-1.

4. In the year 2000, some vacancies of Assistant Professors were available in Dr. Rajinder Prasad Govt. Medical College, Dharamshala. Minimum qualification for the post is prescribed in Recruitment & Promotion Rules of the teaching staff of the college. One of the essential qualifications is three years teaching experience as Lecturer in a recognized Medical College. Petitioner applied for the post of Assistant Professor (Medicine) through proper channel. His application was rejected by the Public Service Commission, impleaded as Respondent No. 4, on the ground that he did not possess the requisite qualification, inasmuch as he did not have three years experience as Lecturer. He challenged the order of the Public Service Commission, by filing the Original Application. He sought direction to the Secretary (Health) to the Government of Himachal Pradesh, to the effect that he be given experience certificate showing that he had been working since the redesignation of the Zonal Hospital as Medical College. He also sought a direction that he be considered for the post of Assistant Professor (Medicine) as having experience from 13.3.1997 and in case found suitable, he be appointed as Assistant Professor.

5. His prayer was opposed by the Respondents. It was stated that Medical College was given recognition on and w.e.f. 14.1.1999 and, therefore, his service as Lecturer was to be counted from the date, the college was granted recognition. Learned Tribunal dismissed the Original Application accepting the aforesaid plea of the Respondents.

6. We have heard the learned Counsel for the parties and perused the record.

7. Admittedly, the Petitioner was appointed as a General Duty Doctor in Zonal Hospital, Dharamshala. This hospital was renamed as Dr. Rajinder Prasad Government Medical College on 13.3.1997. However, the Petitioner was not appointed as a faculty member on and with effect from the date of the renaming of Zonal Hospital as Dr. Rajinder Prasad Government Medical College. As a matter of fact, on the date of redesignation of Zonal Hospital as Medical College, there was no infrastructure for Medical College. Thus, redesignation was done only for the purpose of starting the process of creating infrastructure for the College, with a view to seeking recognition from the Indian Medical Council. Process continued for quite sometime and in that process, the Petitioner was appointed as a Lecturer on and w.e.f. 12.8.1998. Recognition was granted to the Medical College on 14.1.1999. Since, Petitioner had been appointed as Lecturer

on and w.e.f. 12.8.1998, he can at the most be said to have been holding the post of Lecturer with effect from the aforesaid date. In this view of the matter, we are supported by two communications of the Government, which are Annexures P-8 and P-9, per which, teaching staff is appointed to create infrastructure, even prior to the recognition of the institution as Medical College by the Indian Medical Council. However, even from the date of his appointment as Lecturer, i.e. 12.8.1998, Petitioner was not eligible for the post of Assistant Professor, which was advertised in May, 2000 as he did not have the requisite three years experience and therefore, his application could not have been entertained and it was rightly rejected by the Public Service Commission.

In view of the above stated position, we see no merit in the present writ petition. Hence, the same is dismissed.