

(2008) 07 DEL CK 0260

In the Delhi High Court

Case No : Writ Petition (Civil) No. 8138 of 2007

National Council of Educational Research and Training

APPELLANT

Vs

Dr. V.P. Singh, Dr. Sridhar Srivastava, Professor, Department
of Education Surveys and Data Processing NCERT and The
Secretary, University Grants Commission

RESPONDENT

Date of Decision : 16-07-2008

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19
Constitution of India, 1950 — Article 226

Citation : (2008) 105 DRJ 67

Hon'ble Judges : Madan B. Lokur, J;J.R. Midha, J

Bench : Division Bench

**Advocate : R.K. Singh and Deepa Rai, for the Appellant; Sudhir Nandrajog,
Virendra Rawat and Amitesh Kumar, for the Respondent**

Final Decision : Allowed

Judgement

Madan B. Lokur, J.

Rule D.B.

CM No. 15360/2007 (Stay)

1. By an order dated 5th November, 2007, a Division Bench of this Court had granted stay of operation of the impugned judgment and order dated 27th August, 2007 passed by the Central Administrative Tribunal, Principal Bench in OA No. 2064/2006.

2. The short controversy in this case relates to the selection of a Professor in the National Council of Educational Research and Training (for short NCERT). The post is described as Professor, Department of Education Survey and Data Processing and the pay scale is Rs.16,400 - Rs. 22,400.

3. In terms of the criteria laid down by the University Grants Commission (UGC),

the eligibility is as follows:

An eminent scholar with published work of high quality actively engaged in research with ten years experience in post-graduate teaching and/or research at the University/national level institution including experience of guiding research at doctoral level in Social Work.

4. The advertisement by NCERT mentions that the post carries the responsibility of providing leadership for national level surveys conducted by the NCERT from time to time. An incumbent must have in-depth knowledge of survey methodology and statistical techniques necessary for large scale research in social sciences, which have a bearing on education. The educational qualifications and experience were those prescribed by the UGC.

5. It appears that NCERT received as many as 20 applications for the post and a process of short listing was carried out as a result of which Dr. V.P. Singh (Respondent No. 1) was not called for the interview and Dr. Sridhar Srivastava (Respondent No. 2) was selected. Thereupon, Dr. Singh filed an Original Application in the Central Administrative Tribunal u/s 19 of the Administrative Tribunals Act, 1985 challenging the selection of Dr. Srivastava.

6. The Tribunal has taken two factors into consideration while allowing the application of Dr. Singh. Firstly, it found that the constitution of the Selection Committee was improper in as much as one Dr. R.N. Mehrotra was not a specialist in the field for which the selection was to be made and secondly, the short listing criterion fixed was "alien" to the eligibility criteria laid down by the UGC. Because of this alien criterion, Dr. Singh was erroneously not short listed or called for the interview.

7. In so far as the first factor is concerned, namely, the expertise of Dr. R.N. Mehrotra, we find that the Tribunal has mentioned in paragraphs 27 and 28 of its order that the specialist must have an in-depth knowledge of statistical techniques and would require expertise in the field of statistics. The Tribunal came to the conclusion that Dr. R.N. Mehrotra was lacking in experience or expertise in data processing.

8. The qualifications of Dr. R.N. Mehrotra have not been discussed by the Tribunal although it has been mentioned that he is a specialist in Research Methods, Educational Measurement and Evaluation as well as Teacher Education.

9. We have been told by learned Counsel for NCERT that Dr. R.N. Mehrotra is on the panel of specialists of the NCERT. That being so, we have to assume that NCERT, which is by itself an expert body, is aware of the expertise of Dr. R.N. Mehrotra and when it put him on the Selection Committee, it had taken his experience and expertise into consideration.

10. It is not at all clear from the impugned order of the Tribunal how it came to the conclusion that Dr. R.N. Mehrotra does not have any experience or expertise in data processing. We are of the opinion that in a case such as the present, the

Tribunal ought to have deferred to the view of the expert body in this regard, that is, NCERT. We may mention, only for the record, that NCERT has stated in the writ petition filed by it, that Dr. R.N. Mehrotra is a renowned educationist and is considered as an expert in the field of education and educational measurement and survey not only in this country but worldwide. He has to his credit more than four decades of research experience in the field and his expertise and stature as an expert-academician has no parallel in this country. NCERT has also mentioned in the writ petition that Dr. R.N. Mehrotra's professional activities include teaching educational research, guiding Ph.D scholars, conducting UNESCO sponsored projects, etc.

11. We are not commenting one way or the other on the expertise of Dr. R.N. Mehrotra but are only deferring to the views of the NCERT which has chosen him as a specialist to be placed on its panel and as a specialist in the selection that we are concerned with. In our opinion, judicial review under Article 226 of the Constitution of India cannot travel beyond a particular limit to determine the qualifications or otherwise of a specialist or his experience or expertise. In the facts of the present case at least, we have not been given the material to determine the expertise or lack of it of Dr. Mehrotra.

12. The second factor taken into consideration by the Tribunal is that the short listing criterion was alien to the UGC norms.

13. In this regard, the short listing criterion is as follows:

1. First Class Master's Degree with Ph.D.
2. 10 years P.G. Teaching/Research experience as Lecturer/Reader or an official in research institute in the identical pay-scale against regular vacancy.
3. Minimum five publications in journal of repute.

14. According to NCERT, Dr. Singh did not have 10 years teaching experience or research experience in an identical pay scale against a regular vacancy.

15. The need for short listing arose apparently in view of the proportionately large number of applicants being 20 times more than the single advertised post. It is true that a total 20 applicants does not appear to be a large number but if we consider it as a proportion of the advertised number, then it is certainly large. Moreover, the post being that of a Professor, we would expect the interview to be incisive and time consuming. This being so, there is no error committed by NCERT in preparing a short listing criterion.

16. We have been shown the application form submitted by Dr. Singh and a perusal thereof would indicate that he did not work in the identical pay-scale of Rs.16,400 - Rs. 22,400 for the requisite number of years. It is for this reason that as a result of the short listing, Dr. Singh was not called for the interview.

17. It is submitted by learned Counsel for the Petitioner that the UGC guidelines were required to be followed by NCERT while making the selection.

18. Prima facie it appears to us that the UGC guidelines have been adhered to by the Selection Committee. The only departure is that for the purposes of short listing, the bar was raised in view of the proportionately large number of candidates. Raising the bar was not in derogation of the UGC guidelines but was supplemental thereto. This is permissible in view of *Madhya Pradesh Public Service Commission Vs. Navnit Kumar Potdar and another*, .

19. It is submitted by learned Counsel for Dr. Singh that the short listing criterion could have been laid down only by the Selection Committee or by the Council and not by a separate committee. While it is true that in the usual course, short listing ought to have been done by the Selection Committee itself, but we do not find any illegality in the criterion laid down by another committee, which consists of persons belonging to NCERT or connected with NCERT. We may note that in our opinion, the short listing criterion is not in conflict with the basic norms that have been laid down by the UGC.

20. In view of the above, we are not inclined to vacate the interim order passed on 5th November, 2007. The interim order is, Therefore, confirmed till the disposal of the writ petition.

21. We make it clear that any observation made by us is only for the purposes of deciding this application and will not have any bearing on the merits of the case at the time of final decision.

22. The application is allowed.