

National Institute of Mental Health and Neuro Sciences

Vs

Dr. K. Kalyana Raman and others

Civil Appeal No. 1537 of 1982, with C.M.P. No. 11639 of 1982

(K. Jagannatha Shetty, R.M. Sahai, JJ)

28.11.1991

JUDGEMENT

K . JAGANNATHA SHETTY, J.:-

1. This appeal by leave is directed against the judgment of the Karnataka High Court allowing Writ Petition No. 18722 of 1979: (reported in ILR (1982) 1 Kant 523) and quashing the proceedings of the Selection Committee which recommended the appointment of Dr. Gauri Devi as the professor of Neurology at the National Institute of Mental Health and Neuro Sciences ("NIMHANS").

2. NIMHANS - the appellant is a renowned National Institute of Mental Health and Neuro Sciences at Bangalore. It has been established by the co-ordination of the State and Central Government. It is an institute for higher studies and research in the field of Neuro Sciences and allied subjects. It is also a recognised institution for diagnosis and treatment of disorders of the mind and nervous system. The institute provides for training in Neurology, Neuro-surgery, Psychiatry and allied disciplines and preparing students for post-graduate degree and diploma. The institute has been registered as a society under the Karnataka Societies Registration Act, 1964.

3. By advertisement dated 20, June, 1979, NIMHANS invited applications inter alia, for the post of professor in Neurology at the Institute. Dr. Gauri Devi was then working as Associate Professor at the NIMHANS. She was one of the candidates who applied for the Post. Likewise, Dr. Kalyana Raman, Associate Professor of Neurology at Peoria School of Medicine, University of Illinois, U.S.A., was also a candidate. There were in all four candidates who applied for the post.

4. The Governing Body of the NIMHANS constituted a Selection Committee, consisting of Dr. B. Shankaran, Director General of Health Service, Government of India, New Delhi as its Chairman. There were three other members namely; Dr. Vimala Virmani, Professor of Neurology, All India Institute of Medical Sciences, New Delhi, Dr. Arjun Das, Professor of Neurology, Madras, Institute of Neuro Sciences and Dr. Verma, the then Director and Professor of Neuro-surgery in the NIMHANS.

5. The Selection Committee after interview and assessment of relative merits of the candidates recommended a panel of names for appointment as Professor. Dr. Gauri Devi was placed first in the panel of names. Dr. Kalyana Raman was the second. Dr. Gauri Devi was eventually appointed as Professor. Her appointment was challenged by Dr. Kalyana Raman in the High Court of Karnataka by means of a Writ Petition.

6. The High Court allowed the Writ Petition in the judgment which is impugned in this appeal. The

High Court has quashed the proceedings of the Selection Committee and the consequent appointment of Dr. Gauri Devi to the post of Professor of Neurology. The High Court appears to make two points: (i) that it was not possible to say with any degree of confidence that Dr. Kalyana Raman's case has received a fair and reasonable consideration at the hands of the Selection Committee; and (ii) that the Selection Committee has not given any reason, however, brief, to establish any rational nexus between the facts said to have been considered by the Selection Committee and the conclusion drawn by it on the basis of those facts, and the proceedings of the Selection Committee cannot, notwithstanding the eminence of its personnel, be upheld.

7. We will first consider the second point. In the first place, it must be noted that the function of the Selection Committee is neither judicial nor adjudicatory. It is purely administrative. The High Court seems to be in error in stating that the Selection Committee ought to have given some reasons for preferring Dr. Gauri Devi as against the other candidate. The selection has been made by the assessment of relative merits of rival candidates determined in the course of the interview of candidates possessing the required eligibility. There is no rule or regulation brought to our notice requiring the Selection Committee to record reasons. In the absence of any such legal requirement the selection made without recording reasons cannot be found fault with. The High Court in support of its reasoning has, however, referred to the decision of this Court in *Union of India v. Mohan Lal Capoor*, (1974) 1 SCR 797: (AIR 1974 SC 87). That decision proceeded on a statutory requirement. Regulation 5(5) which was considered in that case required the Selection Committee to record its reasons for superseding a senior member in the State Civil service. The decision in *Capoor* case was rendered on 26 September, 1973. In June, 1977, Regulation 5(5) was amended deleting the requirement of recording reasons for the supersession of senior officers of the State Civil services. The *Capoor* case cannot, therefore, be construed as an authority for the proposition that there should be reason formulated for administrative decision. Administrative authority is under no legal obligation to record reasons in support of its decision. Indeed, even the principles of natural justice do not require an administrative authority or a Selection Committee or an examiner to record reasons for the selection or non-selection of a person in the absence of statutory requirement. This principle has been stated by this Court in *R. S. Dass V. Union of India*, 1986 (Suppl) SCC 617 at p. 633 : (AIR 1987 SC 593 at pp. 603-604) in which *Capoor* case (AIR 1974 SC 87) was also distinguished.

8. As to the first point we may state at the outset that giving of reasons for decision is different from, and in principle distinct from, the requirements of procedural fairness. The procedural fairness is the main requirement in the administrative action. The 'fairness' or 'fair procedure' in the administrative action ought to be observed. The Selection Committee cannot be an exception to this principle. It must take a decision reasonably without being guided by extraneous or irrelevant consideration. But there is nothing on record to suggest that the Selection Committee did anything to the contrary. The High Court however, observed, that Dr. Kalyana Raman did not receive a fair and reasonable consideration by the Selection Committee. The inference in this regard has been drawn by the High Court from the statement of objections dated 18 February, 1980 filed on behalf of the Selection Committee. It appears that the Selection Committee took the stand that Dr. Kalyana Raman did not satisfy the minimum requirement of experience and was not eligible for selection. The High Court went on to state that it was some what extraordinary for the Selection Committee after calling him for the 'interview and selecting him for the post by placing him second, should have stated that he did not satisfy the minimum qualifications prescribed for eligibility. According to the High Court the stand taken by the Selection Committee raises serious doubts as to whether the deliberations of the Selection Committee were such as to inspire confidence and re-assurance as to the related equality and justness of an effective consideration of this case. It is true that selection of

the petitioner and the stand taken by the Selection Committee before the High Court that he was not eligible at all are, indeed, antithetical and cannot co-exist. But the fact remains that the case of Dr. Kalyana Raman was considered and he was placed second in the panel of names. It is not shown that the selection was arbitrary or whimsical or the Selection Committee did not act fairly towards Dr. Kalyana Raman. The fact that he was placed second in the panel, itself indicates that there was proper consideration of his case and he has been treated fairly. It should not be lost sight of that the Selection Committee consisted of experts in the subject for selection. They were men of high status and also of unquestionable impartiality. The Court should be slow to interfere with their opinion.

9. In the conclusion, we allow the appeal and set aside the judgment of the High Court. In the circumstances of the case, however, we make no order as to costs.

Appeal allowed.

</html