

# SUPREME COURT OF INDIA

Vijay Bala Bhanot

Vs.

Govt. of N.C.T. Delhi

C.A.No.2367 of 2002

(R.V. Raveendran and Dr. Mukundakam Sharma JJ.)

03.09.2008

## ORDER

1. The appellants, who were working as Lab Technicians, were promoted as Technical Assistants by relaxing the educational qualifications prescribed for the post on 27.11.1998. That was challenged by the second responded-Association before the Central Administrative Tribunal. The Administrative Tribunal by order dated 4.11.1999 allowed the application and set aside the promotion of the appellants herein. The writ petitions filed by the appellants challenging the order of the Administrative Tribunal have been rejected. Feeling aggrieved the appellants have filed these appeals by special leave contending that the requirement relating to educational qualifications having been relaxed by the competent authority, there was no infirmity in their promotion.

2. The recruitment rules prescribed the following qualifications for the post of Technical Assistants:

“B.Sc (Medical Lab. Technician) with 3 years experience as a Lab Technician in any group of these laboratories of Medical Institution/ Hospital.OR 1. Matriculation/ Hr.Secondary/ Sr.Secondary with Science. 2. Diploma in Medical Lab. Technology from a recognised Institution. 3. Three years experience as a Lab Technician in any group of these Laboratories of Medical Institution/Hospital.”

3. It is not disputed that the appellants do not fulfill the said requirements.

“In the case of appellants in Civil Appeal No.2367 of 2002, they did not pass matriculation or Higher Secondary or Senior Secondary with Science as a subject. In so far as the appellants in Civil Appeal No.3576 of 2002 are concerned, they did not possess a Diploma in Medical Lab. Technology from a recognised Institution.”

4. The Government of N.C.T., Delhi has stated that it took a decision to extend relaxation to the appellants to provide career progression as they were experienced employees. The

explanation for relaxation was that the appellants had already rendered sufficient length of service and therefore the shortcomings in their qualifications became immaterial.

5. But the crucial question is whether there was power to relax the qualifications. Note:4 under the Recruitment Rules providing for relaxation reads thus:

“Where the Administrator is of the opinion that it is necessary or expedient so to do, he may, by order for reasons to be recorded in writing relax any of the provisions of the rules with respect to a class or category of persons/posts”.

A careful reading of the Note:4 shows that relaxation of the rules can be only with respect to a class or category of persons/posts and not in regard to individuals. In this case, the relaxation was not with respect of a class or category of persons or posts, but with reference to individuals. The High Court has also noticed that several qualified candidates were available and the power of relaxation in the rules cannot be permitted to be used to ignore the legitimate claims of the qualified candidates.”

6. We therefore find no reason to interfere with the order of the Administrative Tribunal confirmed by the High Court. The appeals are dismissed. We however make it clear that no recovery shall be made in regard to the period during which the appellants worked in the higher post of Technical Assistants.

7. Learned counsel for appellants submitted that some of the appellants have retired and others are approaching age of superannuation. He submits that any reversion after ten years of service in the higher post will cause them hardship. He therefore submitted that the appellants may be permitted to submit representations for protection, by treating their service in the higher post as being in ex-cadre supernumerary posts. All that we can say is that the dismissal of these appeals will not come in the way of giving any representation. But such permission to give representation shall not be construed as recognising or conferring any right for relief.