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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1276/1995

New Delhi this the 3rd day of January, 1996.

HON'BLE SHRI N. V. KRISHNAN, ACTING CHAIRMAN
HON'BLE SMT. LAKSHMI SWAMINATHAN, MEMBER (J)

Dr. Gopal Krushna Pal
S/O Mrutynjoy Pal,
R/O No.8 Vardhan Street,
Anandanagar,
Pondicherry-605009.

... Applicant

(By Shri Rishi Prakash, Advocate)

-Versus-

1. Union Public Service Commission
through its Secretary or
Principal Officer,
Dholpur House, Shahjahan Road,
New Delhi.

2. Union of India through
Secretary, Ministry of
Health & Family Welfare,
Nirman Bhawan,
New Delhi.

3. The Medical Council of India
through its Secretary/Principal
Officer, Aiwan-e-Ghalib Marg,
Kotla Road, New Delhi. ... Respondents

(Respondent No.1 by Shri M. M. Sudan, Advocate;
None for Respondent No.2;
Respondent No.3 by Shri Unus Malik, Advocate)

O R D E R

Shri N. V. Krishnan, Act. Chairman :-

The applicant's grievance as mentioned in para 1
of the O.A. is as follows :-

"The petitioner who is post graduate being
M.D. (Physiology) from Jawahar Lal Institute
of Post Graduate Medical Education and
Research, hereinafter referred to as JIPMER,
affiliated to Pondicherry University applied
for the post of Assistant Professor of
Physiology in response to respondent No.1's
advertisement No. 22/94, Item No. 10
(U.P.S.C. reference No. F.1/370/94/R1 and
Registration No.5) but he was not called
for interview held on 12.7.1995, inspite
of the fact that petitioner has outstanding

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academic career and teaching/Research experience for the simple reason that respondent No.2 has failed and/or deliberately avoided to carry out their statutory obligation in not issuing notification in terms of Section 11(2) of the I.M.C. Act, 1956. The respondent No.3 has already recommended for notification of Pondicherry University to respondent No.1 vide their letter dated 15.6.1995. Further petitioner apprehends that he will also not be called for the subsequent interviews for the said post. The action of respondents in not calling the petitioner for interview held on 12.7.1995, is therefore, illegal, arbitrary, malafide, discriminatory, unconstitutional and null and void, and is liable to be quashed and set aside by this Hon'ble Tribunal."

The applicant has, therefore, sought the following reliefs :-

- "(i) That this Hon'ble Court/Tribunal may be pleased to allow this application of the applicant with costs.
- (ii) That this Hon'ble Court/Tribunal may be pleased to quash and set aside interviews conducted for the post of Assistant Profession of Physiology in Specialist Grade II of Central Health Service (Teaching Specialist Sub-cadre) in response to advertisement No.22/94 of respondent No.1 conducted on 12.7.1995.

In the alternative it is prayed that this Hon'ble Court/Tribunal may be pleased to direct the respondents No. 1, 2 and 3 that the petitioner be interviewed on some other suitable date communicated to him 15 days in advance as petitioner is staying in Pondicherry and he should be treated at par with the candidates interviewed on 12.7.1995 for the purpose of assignment of correct merit.

- (iii) That this Hon'ble Court/Tribunal may be pleased to direct the respondent No.2 to carry out notification under the provision of Section 11(2) of the Indian Medical Council Act, 1956 in terms of recommendation of respondent No.3 as contained in Annexure P-2 to the petition."

2. Notice was directed to be issued on 21.7.1995. As none appeared and no reply was filed, we directed on 31.10.1995 that notice should be sent by special messenger. On 20.11.1995 we noted that all the respondents have been served but none was present. Hence, the case was listed for final disposal on 15.12.1995. On 15.12.1995, apart from the learned counsel for the applicant, learned counsel for respondent No.1, U.P.S.C., Shri M. M. Sudan; and Shri Unus Malik, learned counsel for respondent No.3, the Medical Council of India, alone were present. None was present for the respondent No.2, the Ministry of Health and Family Welfare.

3. At the admission stage, on 21.7.1995, we had held that the first two prayers cannot be considered in the O.A. and that the application would only be considered for prayer No. (iii) in para 8. That prayer is for a direction to the first respondent to carry out notification under the provisions of Section 11(2) of the Indian Medical Council Act, 1956, in terms of the recommendation of the third respondent contained in Annexure P-2 to the O.A.

4. The learned counsel for respondent No.3 admitted in his oral submission that Annexure P-2 letter has been sent to the second respondent recommending that the M.D. (Physiology) qualification granted by the Pondicherry University to students being trained at JIPMER, Pondicherry be recognised and included in the first schedule to the Indian Medical Council Act, 1956 on the same principle as JIPMER has been transferred from Madras University to Pondicherry University. It

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is on account of the absence of such a notification that the applicant was not considered for the post of Assistant Professor of Physiology.

5. In view of this submission, we direct the second respondent to consider the Annexure P-2 letter of the third respondent and take an appropriate decision on this letter under intimation both to the applicant and the third respondent, within one month from the date of receipt of this order.

6. The O.A. is disposed of with the above direction reserving liberty to the applicant to further agitate in the matter in case he is dissatisfied with the decision taken by the second respondent. No costs.

Lakshmi

(Smt. Lakshmi Swaminathan)
Member(J)

N.V. Krishnan

(N.V. Krishnan)
Acting Chairman

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