

20

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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21.7.2015
SECTION OFFICER (JUDL.)
21.4.2015

FORM NO. 4
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :
ORDERSHEET

1. ORIGINAL APPLICATION No : 184 / 2009
2. Transfer Application No : ----- / 2009 in O.A. No. -----
3. Misc. Petition No : ----- / 2009 in O.A. No. -----
4. Contempt Petition No : ----- / 2009 in O.A. No. -----
5. Review Application No : ----- / 2009 in O.A. No. -----
6. Execution Petition No : ----- / 2009 in O.A. No. -----

Applicant (S) : Dr. Dilip Kumar Parida & ans.

Respondent (S) : The Union of India & ans.

Advocate for the : Mr. U.K. Nair
{Applicant (S)} Mr. B. Sarma & Mr. G.Z. Ahmed.

Advocate for the : -----
{Respondent (S)} CSC.

Notes of the Registry

Date

Order of the Tribunal

The application in form is filed with a deposit of Rs. 50/-
No. 396389848
Dated 22.8.09

10.09.2009

Heard Mr. U.K. Nair, learned counsel appearing for the Applicants and perused the materials placed on record. A copy of the O.A. has also been supplied to Mr. K.K. Das, learned Addl. Standing Counsel for Govt. of India; who is present in court today.

W. Sarma
Dy. Registrar
9/9/09

2. It is the case of the Applicants that the old Recruitment Rules of NEIGRIHMS were not enough to attract talented persons to be the members of the faculty of the Institute; for which steps were taken to amend the same/to bring new/progressive Recruitment Rules. The old Rules were replaced by a set of new Recruitment Rules, on 22nd September, 2008, by the Governing Council of the Institute. It is stated that 2 days prior to the introduction of the new Recruitment Rules, an advertisement was issued on 20th September, 2008 to recruit the members of the faculty; as a result of which more qualified persons have been found to be not eligible to participate in the final recruitment. In the

9.9.09
3 (Three) copies of Application with envelope received for issue notices to the Respondents No 1 to 3. Misc. Application for join prayer has not been filed separately. Copy served.

W. Sarma
9/9/09

Contd.
10.09.2009

advertisement, the effective date, upto which the requisite experience must be completed, was 30th June, 2009.

3. Mr. U.K. Nair, learned counsel appearing for the Applicant has argued that the advertisement for the post, under the old Rules, has got no reasonableness and that only demonstrates 'bias' mind of the concerned authority. It is also his case that while granting relaxation in favour of a few candidates, such relaxation has not been acceded to in favour of the Applicants.

4. Learned counsel for the Applicant has argued that there was a miscarriage of Justice in issuing advertisement on 28th September, 2008; especially when the decision was already taken to replace the old Recruitment Rules, by a new Recruitment Rules. Learned counsel submitted that the norms of equality were not maintained and, as such, there was violation of the Article 14 of the Constitution of India.

5. In the aforesaid premises, a prima facie case having been found in favour of the Applicants, we admit this case.

6. Notices be issued to the Respondents requiring them to file their reply/written statement/counter in this case by 27.10.2009.

7. As an ad-interim measure, we direct the Respondents not to proceed with the recruitment under advertisement dated 20.09.2008 that has been placed at Annexure - 8 to this O.A.



Contd/-

Contd/-
10.09.2009

8. While passing the above ad-interim order, we grant liberty to the Respondents to move for vacation/alteration of the ad-interim order well before the date fixed/27.10.2009.

9. Send copies of this order to the Respondents (along with notices) by Speed Post; at the cost of the Applicants. Mr. U.K. Nair undertakes to deposit the cost of the Speed Post in course of the day. Free copies of this order be also supplied to the learned counsel appearing for the parties.


(M.K. Chaturvedi)
Member (A)


(M.R. Mohanty)
Vice-Chairman

Copies of notices along with order dated 10/9/2009 send to D/Sec. for issuing to the respondents by ~~the~~ speed post, A/D at the cost of applicant.

/pb/

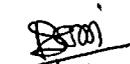
27.10.2009

Free copies of this order also issuing to the L/counsel for both the parties.

M.P. No.111/2009 has been filed by Dr.Yookarin Khonglah seeking his impleadment as Respondent No.4 stating that his rights are likely to be affected by an order, if any, passed in present O.A.. Mr.U.K.Nair, learned counsel appearing for Applicants has no objection for impleadment. Thus, M.P. No.111/2009 is allowed. Dr.Yookarin Khonglah is allowed to be impleaded as Respondent No.4. Accordingly Mr.U.K.Nair is directed to supply a copy of the O.A. to Mr.M.Z.Ahmed, learned Sr. counsel for Dr.Yookarin Khonglah within three days from today. Reply be filed by Respondent No.4 within one week thereafter.

P/No - 1246
1272-1273
14/9/09. D/A 14/9/09 & 15/9/09
9/10/09

Memo of appearance filed by Mr Kankan Das Adll. CGSC.


9/10

A/D Card received from Respt. No. 3.


9/10

M.P. No. 113/2009 has also been filed by Dr. Subrat Panda and Dr. (Mrs.) Jaya Mishra seeking their impleadment as Respondent Nos.5 & 6 respectively. Mr.U.K.Nair, learned counsel for Applicants has no objection for impleadment.

In the circumstances, M.P. 113/2009 is allowed. Let amended memo of parties be filed by the Applicants within one week. Learned

Contd...

16.10.09
W/S filed by the Respondents NO 1, 2 & 3. with undertaking to serve a copy to the Advocate for the Applicant.
dt. 16/10/09

Contd.
27.10.2009

N/S filed.

26.10.09

counsel for Applicants undertakes to supply copies of O.A. to the newly impleaded Respondent Nos.5 & 6 within a period of 3 days from today. Reply of said Respondents be filed within one week thereafter.

As far as reply of official Respondent Nos.1 to 3 is concerned, the same has already been filed on 16.10.2009.

M.P. No.114/2009 has been filed by newly added Respondent Nos.5 & 6 seeking vacation of ad-interim order dated 10.09.2009.

Similarly M.P. No.107/2009 has been filed by official Respondents seeking vacation of stay of selection as ordered on 10.09.2009. Notice to non-applicants, in MP Nos. 114 & 107/2009

Mr.U.K.Nair, learned counsel for Applicants in O.A. accepts notice of said M.P.s. One week time is allowed to Applicants to file reply to this M.P.

List on 04.11.2009. Interim order passed on 10.09.2009 shall continue till the next date of hearing.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

N/S filed.

3/11/09

3/11/09

A/D card received

from Respts No.

1 & 2

3/11/09

PTO

184-09

08.11.2009

Mr.M.Z.Ahmed, learned Senior counsel for Respondent No.4 seeks further time to file reply to the O.A.

Shri K.S.Kyingind, Senior counsel appearing for Respondent Nos.5 & 6 seeks two weeks time to file reply.

Shri U.K.Nair, learned counsel for Applicants states that reply filed on behalf of Respondent Nos. 1 to 3 by Respondent Nos.2 & 3 is not fully justified as no communication has been placed on record whereby Respondent No.1 has authorised Respondent Nos.2 & 3 to file reply on their behalf also. Shri R.Debnath, learned counsel appearing for Respondents 1 to 3 states that necessary documents authorizing Respondents 2 & 3 would be placed on record by way of appropriate means.

In the circumstances, adjourned to 17.11.2009. Shri U.K.Nair, learned counsel for Applicants is directed to file rejoinder, if any, in the meantime.

Interim orders shall continue till the next date. It is made clear that matter will be heard finally and no adjournment will be allowed to either side on the next date.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

Received
10-11-09
(K.K.DAS)
(Dr. C. S. C.)
Received by

A.M. Dutta, Advocate
for Respondent NO.4
on 5/11/2009

Received copy.
Hd by Mr. Das.
10.11.09
(for Mr. U.K. Nair)

5.11.09

- 1) An affidavit filed by the H/Advocate for the Applicant - Copy served.
- 2) Show cause reply has been filed by the Resp. No. 5 or 6. Copy served.
- 3) An Application has been filed by the H/Adv. Mr. R. Debnath C.G.C for authorisation of Respondent No.1. Copy served.

5/11/09

12.11.09

An affidavit in opposition filed by the Respondent No.4 - Copy served to the Applicant.

SA-184/09

17.11.2009

16 of 16
no rejoinder filed

bn

Copy
H. S. G. S. G.
Ch. C. C.
17/11/2009

We have heard Shri U.K.Nair, learned counsel for Applicant at certain length. Serious allegation has been made ^{for} in initiating selection process on the eve when there was a full-fledged proposal to amend Recruitment Rules for various posts. We would like Respondent Nos.1 to 3 to produce original records which contained information highlighting the decision making process for advertisement under the old Rules. We would also like Respondents to inform and apprise this Bench total number of candidates who have applied in terms of notification and advertisement dated 20.09.2008 for various posts, namely, Professor, Associate Professor and Assistant Professor. We would also like to know how many candidates have applied against advertisement dated 17.10.2007, which also finds mention in impugned notification dated 20.09.2008. ^{Records} This shall be produced by said Respondents on 18.11.2009. Further hearing to continue on 18.11.2009.

List this matter at 11.30 A.M. on 18.11.2009.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/bb/

18.11.2009

Learned counsel for Respondents No.1 to 3 Mr R. Debnath has produced before us certain chart showing the number of candidates applied in response to the advertisement issued on 17.10.2007 as well as notification dated 20.9.2008 with break up. However, the details of those who have been appointed with reference to posts, subject/department has not been disclosed. Moreover, we expect the respondents to prepare an appropriate chart showing total number of posts with reference to candidates offered and ultimately selected in the earlier selection, namely 17.10.2007 as well as the decision taken by the respondents to go ahead with impugned selection. Respondents shall also highlight the qualification prescribed in 2003 recruitment rules, amended 2008 rules and further amendment contemplated in process. Learned counsel seeks some time to undertake the aforesaid exercise.

List on 1.12.2009 for hearing.

It is needless to say that when the aforesaid exercise will be undertaken, respondents should also produce the related records in arriving with the said findings.

18.11.2009

Interim order to continue till then.

Copy of this order be made available to Shri R. Debnath, learned counsel for the respondents.

R.D. Deb Nath
R. Debnath
18/11/09

(Madan K. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

The case is ready for hearing /pg/

30/11/09 01.12.2009

Pursuant to ~~our~~ orders passed by this Tribunal, on earlier occasions the Respondents have produced suitable documents showing details of officials who have applied for various posts in different discipline in response to the advertisement in the year of October, 2007 as well as September, 2008. Certain other documents, in pursuant of our orders, have also been produced by Mr. R. Deb Nath learned counsel for Respondents No.1 to 3. Mr. U.K. Nair, learned counsel for Applicant seeks time for perusal of the same.

The case is ready for hearing

14.12.09

Though the Respondents have produced these documents pursuant to our orders, they may file the same by way of affidavit if, so advised, along with these documents so that appropriate course of action can be adopted. Such affidavit be filed within two weeks with advance copy of the same to the Applicant's counsel.

List on 15.12.2009. We may further observed that if hearing are not concluded on that date, the case will remain on Board for hearing on 16th 17th December, 2009 as well.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

/tm/

15.12.2009

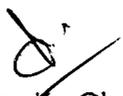
The case is ready
for hearing.

18.1.2010

Due to paucity of time matter could not be taken up for hearing. Mr M.Z.Ahmed, learned Sr. counsel for respondent No.4 and Mr K.S.Kynjing, learned counsel for respondents No.5 & 6 expressed their personal difficulties of their availability during the rest of days in this month.

Accordingly list on 19.1.2010.

Interim order to continue till then.


(Madan Kr. Chaturvedi)
Member (A)


(Mukesh Kr. Gupta)
Member (J)

/pg/

19.01.2010

M.P.6/2010 has been filed by the official respondents placing on record Government of India, Ministry of Health & Family Welfare Department's communication dated 31.12.09 whereby the service condition of the various set of Government doctors namely, Asstt. Professor, Associate Professor, Addl. Professor, Professor, Sr. Professor, Dean and Director are said to be at par with the Govt. of India for faculty of autonomous institute of medical education under the said department. Mr M.Z.Ahmed, learned Sr. counsel appearing for respondent No.4 in the O.A suggested that let the Institute withdraw the notification under challenge, so that the entire controversy

contd..

19.1.2010

be set at rest and the grievance of the applicants are given quietus, particularly when the said respondents may not be ineligible even in the new set of rules to be framed and which are under process. On this suggestion time has been taken by Mr R. Deb Nath, learned counsel for official respondents to seek appropriate instruction. A communication dated 19.1.09 emanating from NEIGRIHMS, Shillong, Meghalaya has been placed on record whereby the matter has been referred to the Ministry of Health & Family Welfare for obtaining the approval of the Governing Council. It is prayed that some time may be granted so that appropriate action could be taken in the matter. This has not been objected either by the applicant or by respondent No.4. However, Mr K.S.Kynjing, learned Sr. counsel appearing for respondents 5-6 has objection to the effect that official respondents cannot be permitted to withdraw the impugned notification.

In the circumstances list on 10.2.2010 as prayed for.

Copy of this order be supplied to Mr R. Deb Nath, learned counsel for official respondents for necessary compliance.

(Signature)
 (Madan Kr. Zhaturvedi)
 Member (A)

(Signature)
 (Mukesh Kr. Gupta)
 Member (J)

*Recd Copy
 R. Deb Nath
 19/1/2010*

*Order dated 19/1/020
 handed over to the
 Mr. R. Deb Nath, Counsel
 for official respondents /pgl
 on 19/1/010.*

19/1/010

10.2.2010

Mr. R. Debnath
C.G.C. and Mr.
Th. Rakesh Singh
Adv. for Respondent
Nos. 5 & 6
under order of 9.2.2010
passed by the Hon'ble
Gauhati High
Court, Shillong Bench
separately which
is in WP(C) No.
11 SM) of 2010 which
may readily be seen
at Flap. A & B.
10.2.2010

10.2.2010

List the matter on 15.2.2010.

(Madan Kumar Chaturvedi)
Member (A)

15.02.2010

On the request of learned counsel for the parties, list the O.A. for hearing on 09.03.2010.

(Madan Kumar Chaturvedi)
Member (A)

(Mukesh Kumar Gupta)
Member (J)

09.03.2010

Since Division Bench is not available for some time almost for entire month of March except for few days, list on 05.04.2010.

(Mukesh Kumar Gupta)
Member (J)

05.04.2010

Heard Mr. U.K. Nair, along with Mr. G.Z. Ahmed, learned counsel for Applicant and Mr. B.N. Dutta, Sr. Advocate along with Mr. R. Debnath, Advocate for Respondent Nos. 1-3. Mr. K. Sunar, learned counsel for Respondent Nos. 5&6 and Mr. D. Bhuyan, learned counsel for Respondent No.4 adopts the arguments of official respondents.

Heard both sides. Reserved for orders.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

The case is ready
for hearing

12.2.2010

The case is ready
for hearing

8.3.2010

The case is ready
for hearing

1.04.2010

/bb/

/pb/

04.05.2010

At the time of writing the judgment some important legal issues were noticed, on which there was no discussion at the time of hearing.

List for ^{Being} ~~to be~~ spoken to on 05.05.2010.

(Madan Kr. Chaturvedi)
Member (A)

(Mukesh Kr. Gupta)
Member (J)

/pg/

05.05.2010

This O.A. had been heard at length and reserved for orders. Thereafter, while preparing the order, we encountered much grey areas, which requires clarification from both sides, namely; (i) whether governing council can make amendment in the rules? If yes, then what is the procedure for such amendment? If not, which body is competent to make such amendment. (ii) Once amendment in Rules is approved by governing council - Can this be questioned by any other authority; (iii) whether governing council proposes amendment or makes amendment; (iv) what is the mode of publication of amended Rules and how the same comes into effect; (v) whether the advertisement dated 20th September 2008 satisfies the test of fairness; (vi) whether unusual haste in advertising the post by itself is sufficient to prove the charge of malafide. Who are the blue eyed persons as alleged in the O.A., for whose sake the unusual haste was made in issuing the advertisement and favour was sought to be done. (vii) Whether the posts were advertised within the frame work of law, Whether it is a case of improper use of power or abuse of power.

O.A.184 of 2010 (2009)

Contd/-

(viii) If the decision is within the confines of reasonableness, whether court can peep into the penumbral areas. Whether it was well within the power of authority to advertise the post.
(ix) Whether the test of "Wednesbury Principle" can be applied in the facts of present case.

Issue notice to the Respondents along with copy of this order.

[Signature]
05/05/2010

Since none appears for Respondents ^{as} in the matter ^{was} shown in the supplementary cause list, issue notice to Respondents along with copy of this order. Copy of this order be also made available to Sri U.K. Nair, learned counsel for Applicant.

[Handwritten mark]

Received copy of order dt. 5.5.10 on behalf of Res. No. 526.

R. Copy on 06.05.10 at 10:25 am. *[Signature]*

List the matter for hearing on 28th May 2010

N. Sarna
Advocate
6.5.10

[Signature]
(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

/pb/

Received copy of order dated 5/5/2010 on behalf of Respondent No- 1 to 3.

[Signature]
R. Dibrath
12/05/2010

The case is ready for hearing.

[Signature]
10.6.2010

11.06.2010 Present: Mr.G.Z.Ahmed, proxy counsel for
Mr.U.K.Nair, learned counsel for applicant

Mr.B.N.Dutta, Sr. Advocate along with
Mr.R.Debnath for the official respondents.

None for the other respondents.

Our attention was drawn to order passed
by Hon'ble High Court in W.P.(C) No.156(SH)2010
on 10.06.2010 requiring this Tribunal to dispose of
present proceedings by passing final order within
a time limit prescribed therein.

Mr.G.Z.Ahmed, proxy counsel states that
learned counsel for applicant Mr.U.K.Nair is in
personal difficulty as his wife has been suddenly
hospitalized, and therefore, makes a request to
list the matter on next working day i.e.,
14.06.2010. Mr.B.N.Dutta; learned Sr. Advocate
appearing for official respondents states that he
will not be in a position to appear on 14.06.2010
and accordingly prays that matter be taken up
on 16.06.2010. Ordinarily in view of the order
passed on 10.06.2010 in aforesaid writ petition,
we would not have adjourned the matter at all,
but keeping in view the prayers of the parties, list
on 16.06.2010.

From the order dated 10.06.2010 it
appears that a projection has been made
before Hon'ble High Court that for one reason or
the other this Tribunal is not inclined to dispose of
the case. We would like to dispel this doubt
created, as projected by Union of India & official
respondents. We may note that the matter had
been heard in detail and reserved for orders
vide order dated 05.04.2010. Though the draft
order was virtually finalized, but as the Bench felt
that certain issues have not been appropriately

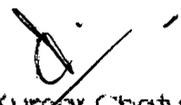
Contd...

O.A.No.184/2009 & M.P.No.86/2010

28.05.2010 Learned Sr. Counsel for the respondents states that pursuant to various queries raised vide order dated 05.05.2010, they intend to file reply thereto except query at Sl.No.1, with copy to the applicant. Mr G.Z. Ahemd, learned counsel for applicant, seeks time to peruse the same and react.

M.P.No.86/2010 also has been filed seeking impleadment by Smt. Nochovono Tase as respondent No.7. We may observe that, in fact, we have heard the entire matter and reserved it for orders. It was only when we encountered with certain issues which required clarification, we had listed the matter on 05.05.2010 and required the parties to provide various information detailed therein. Learned Sr. Counsel for the respondents states that any Misc. Application for impleadment at this stage is not welcome and said official, if she has any grievance, would be at liberty to take appropriate proceedings. Prima facie we find substance in said contention.

However without expressing any opinion, list it on 11.06.2010.


(Madan Kumar Chaturvedi)
Member (A)


(Mukesh Kumar Gupta)
Member (J)

nkrm

28.5.2010
Short reply on behalf of all respondents has been filed by Mr R. Debnath, C.A.C. copy not served.
(28/5) 2010

Contd.
11.06.2010

-15-17

addressed and clarified by both parties, we listed the matter for being spoken to on 05.05.2010. On said date though respondents were not present, various aspects which need clarification from both sides were also detailed therein in specific, and as such the matter had been adjourned to 28.05.2010. The registry was directed to issue notice to respondents besides sending copy of the order passed on said date. On which day (28.05.2010), we noticed that Sr. Advocate for the respondents intended to file reply to the queries raised vide order dated 05.05.2010 and as such, the matter had been adjourned to today. We may observe that so called reply filed is neither dated, verified nor signed by official respondents. We wonder whether based on such information, as revealed in said reply, any official/respondents could be held responsible or certain person could be held liable.

We also noticed that aforesaid writ petition has challenged various orders passed by this Tribunal including order dated 28.05.2010. We record our strong dissent in the manner in which the issues had been projected by the official respondents before Hon'ble High Court as if this Tribunal is responsible for the delay in disposal of the case, which projection is not factually correct and justified. We may also observe that earlier in terms of order dated 09.02.2010 passed in W.P.(C) No.11(SH) of 2010, we have decided M.A. Nos.114/2009, 116/2009, 107/2009 and 6/2010 seeking vacation of interim orders vide oral order dated 15.02.2010. We may also note that present matter was given preference in hearing and expeditious hearing was granted keeping in view important legal issues raised in present O.A. Order sheets maintained in this O.A.

Contd...

O.A.184-09

Contd.
11.06.2010

itself would be evident on this aspect. However, without precipitating the matter further, adjourned to 16.06.2010, as prayed by learned Sr. Advocate for the official respondents.

It is made clear that no further adjournment to either side for any reason would be granted. List the matter on the top of list as item no.1 in regular category.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

11.6.2010
An application has been filed by Mr. R. Debnath, C.S.C. 11/6/2010

The case is ready for hearing. /bb/

15.6.2010

16.06.2010

Certain documents have been placed on record by the applicants, received by them under the RTI Act, stating that they are pertinent to issue raised and would be necessary to take into consideration while adjudicating the matter. This has not been objected to, hence taken on record.

We have heard Mr.U.K.Nair, learned counsel for the applicants, Mr.B.N.Dutta, learned Sr. counsel along with Mr.R.Debnath, for respondents 1-3 and Mr.K.Sunar, learned counsel for respondents 5-6. None for other respondents. None for the other respondents.

(Madan Kumar Chaturvedi) (Mukesh Kumar Gupta)
Member (A) Member (J)

Received by Mr. G. T. Gupta for Resp. 5.

Received copy in the Respondent no. 1 to 3.

R. Debnath
7/7/2010

13.7.2010

judgment/verdict under
sent to D/S for m

Resubmit

1519
1522 NO 7-7-2010

33

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

Original Application No.184 of 2009.

29th
DATE OF DECISION: 06.2010

Dr. Dilip Kumar Parida & Another.....Applicant/s.

Mr.U,K,Nair

..... Advocate for the
Applicant/s.

- Versus -

U.O.I. & Ors.

.....Respondent/s

Mr.B.N.Dutta, Sr.Advocate with R.Debnath for respndt 1-3, Mr.D.Bhuyan for
respndt 4, & Mr.K.Sunar for respndt. 5-6

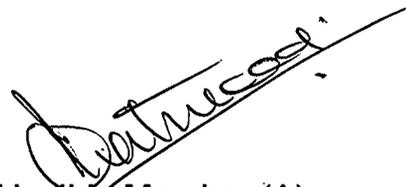
.....Advocate for the
Respondents

CORAM

**THE HON'BLE MR.MUKESH KUMAR GUPTA, MEMBER (J).
THE HON'BLE MR. MADAN KUMAR CHATURVEDI, MEMBER (A)**

- | | | |
|----|---|--------|
| 1. | Whether Reporters of local newspapers may be allowed to see the Judgment? | Yes/No |
| 2. | Whether to be referred to the Reporter or not? | Yes/No |
| 3. | Whether their Lordships wish to see the fair copy of the Judgment? | Yes/No |

Judgment delivered by


Hon'ble Member (A)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

Original Application No.184 of 2009

DATE OF DECISION : THIS, THE 29th DAY OF JUNE, 2010..

THE HON'BLE MR MUKESH KUMAR GUPTA, MEMBER (J)
THE HON'BLE MR MADAN KUMAR CHATURVEDI, MEMBER (A)

1. Dr. Dilip Kumar Parida,
resident of Quarter No.B-8C, NEIGRIHMS,
NEIGRIHMS Campus, Mawdiangdiang,
Shillong – 793018, Meghalaya.
2. Dr Mihir Kumar Goswami,
resident of Quarter No. B-IC, NEIGRIHMS,
NEIGRIHMS Campus, Mawdiangdiang,
Shillong – 793018, Meghalaya.Applicants

By Advocate Shri U.K.Nair.

- Versus -

1. The Union of India,
represented by the Secretary,
Ministry of Health, Deptt. of Family Welfare,,
North East Division,
Nirman Bhawan, New Delhi-110108.
 2. The Governing Council, NEIGRIHMS,
NEIGRIHMS Campus, Mawdiangdiang,
Shillong – 793018, Meghalaya.
 3. The Director, NEIGRIHMS,
NEIGRIHMS Campus, Mawdiangdiang,
Shillong – 793018, Meghalaya.
 4. Dr. Yookarian Khonglah
NEIGRIHMS Campus, Mawdiangdiang,
Shillong – 793018, Meghalaya.
 5. Dr. Subrat Panda,
S/o Shri M.C.Panda,
Assistant Professor (O&G)
R/o Quarter No.B-9C,
NEIGRIHMS Campus, Mawdiangdiang,
Shillong – 793018, Meghalaya.
 6. Dr. (Mrs) Jaya Mishra,
D/o Prof. R.R.Mishra,
Quarter No. B9A, NEIGRIHMS,
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NEIGRIHMS Campus, Mawdiangdiang,
Shillong – 793018, Meghalaya.Respondents

By Advocate Mr B.N. Dutta, Sr. Advocate with R. Debnath for Respondents 1-3, Mr D. Bhuyan for respondent No.4 & Mr K. Sunar for respondents 5-6.

ORDER

MR MADAN KUMAR CHATURVEDI (A)

By this O.A applicants make a prayer to set aside and quash the advertisement dated 20.9.2008 by which applications were invited on the basis of the qualifications prescribed by erstwhile recruitment rules towards filling up the various faculty posts in the North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences (NEIGRIHMS), Shillong. Alternatively, prayer was made to render direction to the respondents to screen the applications of the applicants for the post of Professor in the subjects of their speciality in terms of the qualification prescribed by the amended recruitment rules. Mr U.K. Nair, learned counsel appeared on behalf of the Applicants, Mr B.N. Dutta, learned Sr. counsel assisted by Mr R. Deb Nath appeared on behalf of Respondents No.1, 2 & 3. Respondent No.4 was represented by Mr M.Z. Ahmed, learned Sr. Counsel assisted by Ms B. Dutta & Mr D. Bhuyan, respondents No.5 & 6 were represented by Mr K. Sunar.

2. The North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences (hereinafter referred to as NEIGRIHMS) is an autonomous Institution established by the Government of India under the Meghalaya Registration of Societies Act 1983. It is controlled by its Governing Council which is the highest policy making body headed by its Chairman being the Union Cabinet Minister, Ministry of Health and Family Welfare, Government of India. The NEIGRIHMS has now been designated as the Post Graduate Medical Institution in the lineage of AIIMS, New Delhi and PGIMER,



Chandigarh. It is the first and the only Post Graduate Medical Institute in the North Eastern Region and the third in the country established by the Ministry of Health and Family Welfare, Government of India.

3. The Governing Council vide its meeting held on 22.09.2008 proposed the amendment of Recruitment Rules, being in tune, with the Recruitment Rules of the other Postgraduate Medical Institute such as AIIMS, PGMIMER etc. The proposed Recruitment Rules were framed to facilitate the induction of qualified faculty.

4. The approved Minutes of the 10th Governing Council held on 22.9.2008 was received in the Institute on 18.11.2008 vide Ministry's letter dated 5.11.2008 and the same were circulated to all Members of Governing Council for comments. Meanwhile Ministry vide letter dated 27.11.2008 had requested the Institute to send the proposal for amendment of the Recruitment Rules of Faculty posts at par with AIIMS and PGIMER. Accordingly the proposal, as required by the Ministry was sent

5. Applicants in the present case had completed the MD Course in the subjects of Radiation Oncology and General Medicine respectively in the years 1994 and 1989. The applicant No.2 had subsequently obtained his Ph.D degree in the subject of General Medicine in the year 1994. The applicant No.1 on completion of his MD degree in Radiation Oncology had joined the AIIMS as Senior Residency Doctor in the year 1995 and continued as such till February, 1998. Thereafter with effect from February 1998 to February, 2001 he served the said Institute as Senior Research Associate and from February 2001 to August 2004 he served as Research Assistant. The applicant No.2 after completion of his MD course joined the Guwahati Medical College as Resident Physician in the year 1990 and continued as such till February, 1996.

Thereafter, he was promoted to the post of Assistant Professor on February, 1996 and held that post till August, 2001 when he was transferred to Assam Medical College in the same capacity and continued as such till August, 2007. The applicant had joined in service of the NEIGRIHMS in the year 2004 and 2007 respectively. The applicant No.1 stated to be functioning as Head of the Department of Radiotherapy. The applicant No.2 as stated is continuing as Head of department of General Medicine. Both the applicants said to have carried out high end research works on various aspects in the field of Medical Science which have been published in various National and International journals.

6. Both the applicants, applied for the post of Professor in the subjects of their speciality. The requirement under the proposed new Recruitment Rules for Professor (Medical) was stated to be 14 years teaching and/or research experience in a recognized Institution, in the subject of speciality after obtaining the qualifying degree of MD/MS or 12 years after obtaining M.Ch. D.M or qualification recognized equivalent thereto, comparing to 4 years teaching experience as Associate Professor as prescribed in the old rules.

7. For Associate Professor (Medical) qualification required under proposed Recruitment Rules is 6 years teaching and/or research experience in the recognized Institution in the subject of speciality after obtaining the qualifying degree of MD/MS or four years after obtaining M.Ch/D.M or qualification recognized equivalent thereto as against five years of teaching experience as Assistant Professor/Lecturer/Demonstrator in the old rules. For Assistant Professor (Medical) 3 years teaching and/or research experience in a recognized Institution in the subject or speciality after obtaining the qualifying

degree of MD/MS or qualification equivalent thereto against 3 years teaching experience in the old rules.

8. The erstwhile Recruitment Rules of NEIGRIHMS said to be inadequate for meeting the requirements of the Institute and failed in attracting qualified and competent candidates for the various posts meant for the faculty members as the Institute issued seven advertisements towards filling up 160 number of various posts meant for the faculty members and has been able to recruit only 35 candidates against those advertisements by incurring an expenditure of Rs. 1,30,00,000/-.

9. There was discussion among the faculty members of the Institute as regards the infirmities in the old rules. Representation was made before the Director, NEIGRIHMS on 30.6.2005 highlighting the various loopholes and deficiencies in the said Recruitment Rules which had adversely affected career advancement prospects in the Institute.

10. On the basis of such representation the Director discussed the matter with the faculty members and prominent academicians such as Chairman of the National Board of Examination, Vice Chancellor of the North Eastern Hill University and other dignitaries. The matter was forwarded to the Joint Secretary, Ministry of Health & Family Welfare on 7.4.2006 for placing the same before the competent authority for perusal and necessary approval.

11. On 27.6.2007 a decision was taken to start MBBS course in the Institute from the next academic session necessitating immediate recruitment of faculty members but for the non finalization of Recruitment Rules, recruitment of faculty members could not be undertaken. Director as such made a request to the Joint Secretary for amendment of the existing Recruitment Rules in tune with the AIIMS Recruitment Rules at the earliest possible.



12. Old Recruitment Rules were stated to be discriminatory in nature to the existing meritorious faculty members of the Institute, inasmuch as, for the post of Assistant Professor teaching experience required was for 3 years as SRD, Tutor, Demonstrator, Registrar after completion of MD/MS in an Institute recognized by MCI whereas faculty members of private institute who had joined as Assistant Professors without teaching experience as SRD could stake their claim for the posts of Assistant Professors in the NEIGRIHMS.

13. At the level of Associate Professor the existing Recruitment Rules requires 5 years teaching experience as Assistant Professor to become eligible for holding the post of Associate Professor, and the Assistant Professors who are appointed on the basis of their 3 years teaching experience as Assistant Professors in the NEIGRIHMS stakes claim for the post of Associate Professors thereby putting candidates from premier institutes such AIIMS, PGIMER at a much disadvantageous position, who besides 3 years of SRD teaching experience have to render 5 years of service as Assistant Professors to become eligible for holding the post of Associate Professor.

14. The old Recruitment rules of the Institute did not give weightage to research experience as is considered in AIIMS/PGMIER, which has been highlighted as an unfortunate state of affair, the NEIGRIHMS being set up as a Postgraduate Research Institute in lineage with the AIIMS and PGMIER. Therefore to remove these deficiencies and also to attract faculty members from premier Institute and promote research work Director of the Institute requested the Governing Council to amend the Old Recruitment Rules in tune with the Recruitment Rules of AIIMS and PGI.



15. Acceding to the request from the Director, the Governing Council, which is the apex policy making body of the Institute, incorporated this issue in agenda for meeting, held on 22.9.2008, as Item No. 6 which reads as under :

“Agenda Item No. 6 :

To consider amendment of the Recruitment Rules of Faculty posts at par with Recruitment Rules of Faculty posts of AIIMS & PGIMER.

The Member Secretary informed the Council that in the existing Recruitment Rules for Faculty posts, there were grey areas in matters like qualification, experience etc. for different category of posts. The present recruitment rules also did not give weightage to research. He also informed the Council, that in order to attract faculty from eminent Institute and also to promote research, the existing Recruitment Rules for Faculty posts may be modified, amended as per the Recruitment Rules of faculty posts of AIIMS, New Delhi and PGIMER, Chandigarh.

After discussion, the Council approved the amendment of the Recruitment Rules of faculty posts in NEIGRIHMS at par the Recruitment Rules of faculty posts of AIIMS New Delhi and PGIMER, Chandigarh. The Council also decided that a detailed proposal for creation of additional posts required for starting MBBS may be submitted to the Ministry.”

(emphasis supplied)

16. The hardship in recruiting Senior faculty members was also discussed. It was also stated that there was no response to the advertisement for faculty posts. On that basis it was proposed to fill up the vacancies with retired faculty members on contract basis for a fixed term till the age of 65 years at a consolidated pay and this proposal was also approved. The Governing Council also approved the amendment of Clause 18(b) of the Institute's Bye Laws raising the superannuation of teaching faculty from 62 to 65 years. The implementation of Assured Promotion Scheme for the faculty was also approved subject to the examination by Internal Finance Division of the Ministry.

17. In the mid of these developments Director, NEIGRIHMS issued an advertisement dated 20.9.08 inviting applications as per the Old Recruitment



Rules. Applicants alleged, mala fide, in relation to this advertisement and submitted that the higher ups in the Institute wanted to appoint their blue eyed persons against the advertised post and in order to narrow down the ambit of competition these posts were advertised just two days prior to the approval of the new Recruitment Rules. Applicants exemplified with reference to a chart appended to the O.A vide Annexure-9 that on number of previous occasions when the authority failed to appoint qualified candidates for various faculty posts they have appointed number of candidates by relaxing the qualifications. The chart is reproduced here as under:-

“Example of Relxations Given to various Faculty Members at different time:

Name	Experience	Post appointed	Experience required in NEIGRIHMS RR	Quantum of Relaxation given
Dr. Daniaala	3 yrs. Senior Residency	Associate Professor	5 yrs as Assistant or 06 yrs Post MD (AIIMS, PGI, SGPGI)	5 yrs. experience as Asstt. Professor
Dr. Vandana Rupheal	2 yrs.8 months as Senior Resident & 1&1/2 yrs as Asst. Prof. in Private Hospital	Associate Professor	5 yrs as Assistant Professor or 6 yrs Post MD (AIIMS, PGI, SGPGI)	3&1/2 yrs. experience as Asst. Prof
Dr. Vandana Rupheal	1%1/2 yrs as Asst. Prof. in Private Hospital and 5 yrs as Associate Prof.	Professor	5 yrs as Asst. Prof. & 4 yrs as Assoc. Prof. or 14 yrs post MD (AIIMS, PGI, SGPGI)	3&1/2 yrs experience as Asst. Prof.
Dr.A.C. Phukan	Nil (Working in ICMR)	Assoc. Professor	3 yrs of Senior Residency/Lecturer	3 yrs.
Dr.A.C. Phukan	10 yrs experience from ICMR & 2 & ½ yrs as Associate Prof.	Professor	5 yrs as Asst. Prof. as Asst. Prof., as Assoc. Prof. or 14 yrs Post MD(AIIMS), PGI, SGPGI)	5 yrs as Asst. Prof. & 1 & ½ yrs. as Assoc. Prof.
Dr.K.G. Lynrah	2 yrs & 4 months of Senior Residency in	Assistant Professor in the Department of	3 yrs of Senior Residency	8 months of Senior Residency and

	Gastroenterology Department, NEIGRIHMS, which did not had a Faculty Member	Medicine		Department of Medicine, no experience
Dr. Hussain	3 yrs of Senior Residency in Gastroenterology Department, NEIGRIHMS, which did not had a Faculty Member	Assistant Professor in the Department of Medicine	3 yrs of Senior Residency	Department of Medicine, no experience

18. It was vehemently contended on behalf of the applicants that the respondents grossly erred in inviting applications under the old Recruitment Rules which were found to be defective and has become obsolete after the approval of the new rules on 22.9.2008 by the Governing Council. It was stated that the applicants made a representation on 25.2.09 before the Secretary, Department of Health & Family Welfare highlighting their grievances and prayed for screening their applications in the light of the proposed recruitment rules. Representations were made on 17.8.09 and 28.8.09 respectively before the Director, NEIGRIHMS highlighting all these aspects. But nothing was done in the matter. It was also stated that Director has issued order for the modification of the Recruitment Rules on 05.11.2008.

19. It was alleged that the impugned advertisement is malicious and discriminatory for giving undue weightage to services rendered in private institutes whereas services rendered in premier institutes of the country such as AIIMS, PGIMER are not given the same weightate which is against the principles of Equality before Law and Equal Protection of Law as enshrined in the Constitution of India. On that basis it was claimed that action on the part of the respondents authority in issuing advertisement dated 20.9.08 on the basis of Old Recruitment Rules disqualifying the candidature of the applicant for the

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post of Professor in their respective subjects was erroneous and discriminatory in nature.

20. It was submitted on behalf of the respondents that the minute of the Governing Council meeting dated 22.9.08 was communicated to the Ministry of Health & Family Welfare, wherein decision was taken for amendment of the existing Recruitment Rules in the line of AIIMS and PGIMER, Chandigarh. Thereafter Ministry vide communication dated 27.11.08 advised for sending a fresh proposal for amendment of the Recruitment Rules. Therefore, it is not correct to say that amended Recruitment Rules has come into existence on 22.9.08. Reliance was placed on the decision of the Hon'ble Apex Court rendered in the case of Union of India vs. V. Ramakrishnan, 2005 (8) SCC 394, wherein it was held that, approval of draft rules by the competent authority, is sine qua non, for its enforcement. According to learned counsel proposed amended Recruitment Rules are yet to be approved by the competent authority.

21. Commenting on the claim of Sri Dilip Kr. Parida, it was stated that he cannot be designated head of the department as, an Assistant Professor cannot be designated as Head of Department. In the context of second applicant it was stated that Ph.D is not an essential or desired qualification as per existing Recruitment Rules or in any Central Government Medical Institution AIIMS/PGIMER and is not relevant to the issue. The Government of Assam has not given promotion to the applicant No.2 for more than 13 years.

22. It was further stated that once the selection process starts, selection criteria cannot be changed. There was absolutely no mala fide in issuing the advertisement dated 20.9.08. It was just to expedite the selection process. There

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is absolutely no ground for alleging bias. Applicants only made wild allegations. It was not pin pointed that against which particular candidate favour is shown.

23. Mr M.Z.Ahmed, learned Sr. counsel appearing for respondent No.4 suggested that let the institute withdraw the advertisement under challenge, so that entire controversy be set at rest and the grievance of the applicants are given quietus, particularly when the said respondents may not be ineligible even in the new set of rules to be framed and which are under process.

24. We have heard the rival submissions in the light of materials placed before us, and precedents relied upon. The facts leading to the present case before us and which are not in dispute lie within a narrow compass. The advertisement was issued on 20.9.08 to recruit members of the faculty. It was alleged by the applicants that it was issued to recruit the blue eyed boys, as a result of which more qualified persons have been found to be not eligible to participate in the final recruitment. The advertisement has got no reasonableness. It only demonstrate biased mind of the concerned authority, inasmuch as, relaxation was granted to accommodate its candidates. Norms of equality were not maintained and there was miscarriage of justice, inasmuch as rules of natural justice were not followed.

25. Rule of natural justice is calculated to secure justice or to put it negatively to prevent miscarriage of justice. It was conclusively held by the Apex Court that the principles of natural justice are part of Article 14 and the procedure prescribed by law must be just, fair and reasonable (**D.K.Yadav v. J.M.A. Industries Ltd., (1993) 3 SCC 259, 269**). Doctrine of fairness or the duty to act fairly and reasonably is a doctrine developed in the administrative law field to ensure the rule of law and to prevent failure of justice where the action is administrative in nature. Doctrine of fairness is evolved to ensure fair

action where the function is administrative. A decision is not said to be fair when it is biased. According to Black's Law Dictionary (Sixth Edition) bias means: Inclination; bent; prepossession; a pre-conceived opinion; a predisposition to decide a cause or an issue in a certain way, which does not leave the mind perfectly open to conviction. To incline to one side. Condition of mind, which sways judgment and renders judge unable to exercise his functions impartially in particular case. It is predisposition to decide for or against one party without proper regard to the true merits of the dispute.

26. Prima facie no one should be a judge in what is to be regarded as '**sua causa**' which means of his own or its own cause, whether or not he is named as a party. The decision maker should have no interest by way of gain or detriment in the outcome of a proceeding. Interest may take many forms. It may be direct, it may be indirect, it may arise from a personal relationship or form a relationship with the subject matter, from a close relationship, or from a tenuous one. It is well settled that the law permits certain things to be done as a matter of necessity which it would otherwise not countenance on the touchstone of judicial propriety. It is of fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to be done.

27. Various arguments placed before us by Mr U.K.Nair, resemble so many radii of a circle starting from different points on its circumference but all oriented towards the allegation of mala fide due to unusual haste in issuing the advertisement dated 20.9.08. It was submitted that higher ups of the Institute wanted to appoint their blue eyed persons against the advertised posts and in order to narrow down the ambit of competition these posts were advertised just two days prior to the approval of the new Recruitment Rules.

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28. With the question whether decision to adopt old rules is wise or foolish we are not concerned, we can only interfere if to pursue it is beyond the powers of the authority. As Lord Hailsham L.C has said, "two reasonable persons can perfectly reasonably come to the opposite conclusions on the same set of facts without forfeiting their title to be regarded as reasonable." [Re W. (An infant) [1971] J.A.C 682 at 700. It is often expressed by saying that the decision is unlawful if it is one to which no reasonable authority could have come. It is well know judgment of Lord Greene M.R in **Associated Provincial Picture Houses Ltd. v. Wednesbury Corporation [1948] 1 K.B. 223 at 230** relevant portion of which reads as under :

"It is true that discretion must be exercised reasonably. Now what does that mean? Lawyers familiar with the phraseology used in relation to exercise of statutory discretions often use the word 'unreasonable' in a rather comprehensive sense. It has frequently been used and is frequently used as a general description of the things that must not be done. For instance, a person entrusted with a discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters which he is bound to consider. He must exclude from his consideration matters which are irrelevant to what he has to consider. If he does not obey those rules, he may truly be said, and often is said, to be acting 'unreasonably'. Similarly, there may be something so absurd that no sensible person could ever dream that it lay within the powers of the authority. Warrington L.J. in *Short v. Poole Corporation* gave the example of the red haired teacher, dismissed because she had red hair. This is unreasonable in one sense. In another it is taking into consideration extraneous matters. It is so unreasonable that it might almost be described as being done in bad faith; and, in fact, all these things run into one another.

This has become known as the Wednesbury principle. It explains how "unreasonableness covers the multitude of sins."

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29. The Ministry vide letter dated 25.11.99 to the Director of Institute clarified the position as to competence of Governing Council to make amendment of rules as under:

“It is further clarified that once the approval of SFC and Governing Council is obtained further approval from this Ministry is not required except in the case of creation of posts, upgradation of post, matters relating to scales of pay and other relevant aspects of service conditions.”

(emphasis supplied)

It would also be relevant to refer here the letter dated 5.11.08 addressed to the Director by the Under Secretary to the Govt. of India, Ministry of Health & Family Welfare, North Eastern Region which reads as under :-

“To

The Director ,
North Eastern Indira Gandhi Regional
Institute of Health and Medical Science
(NEIGRIHMS)
Director Block, GPO Post Bag No.92,
Mawdiangdiang Village,
East Khasi Hills, Shillong

Sub: Draft minutes of the 10th Governing Council Meeting held on 22nd September 2008 at New Delhi-regarding.

Sir,

I am directed to forward herewith a copy of the minutes of the 10th Governing Council Meeting which held on 22.09.2008 duly approved by the Hon'ble Union Minister of Health and Family Welfare for your kind information and further necessary action.”

(emphasis supplied)

It is pertinent to note that on the body of this letter a note was put by the Director in which directions were rendered for the circulation and follow up of the notification of the recruitment rules.

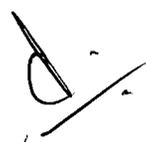
30. Rule 6 of the NEIGRIHMS, Shillong 2006, confers power to the Governing Council to make, alter and revise recruitment rules. The text of the Rule 6 of Memorandum of Association, Rules & Bye Laws as under :

“6. Without prejudice to the generality of the above powers, the Governing Council shall have powers:

- a) to make, alter and revise the Regulations;
- b) to acquire, hold and dispose of property, movable or immovable and to administer all assets;
- c) to delegate by specific resolution any of its powers to any persons, posts, committees, boards or other bodies composed wholly or partly or its own members; and
- d) to organize, establish, carry on and maintain, dissolve working Center for training, research, consultation and any other work in furtherance of the objects of the Institute in any part of India.”

Despite our repeated queries nothing was placed before us to demonstrate that under what particular provision Governing Council is obliged to get the rules approved by the Ministry, when it was decided in the interest of the Institute by the Governing Council to amend the Recruitment Rules in tune with the recruitment rules of the other Post Graduate Medical Institutes like AIIMS, PGIMER etc. why delay was caused in implementing the decision and what was the urgency of issuing advertisement dated 28.9.2008 inviting applications as per the old recruitment rules?

31. Duty to act fairly is the backbone of fundamental rights. The duty inheres into it that the powers bestowed with the authority has to be exercised for that purpose and not for other purpose, otherwise allegation of abuse of power, by the authority will come. Two reasonable persons can perfectly reasonably come to the opposite conclusion on the same set of facts without forfeiting their title to be recorded as reasonable. It is of utmost importance that the discretion must be exercised reasonably. A person entrusted with discretion must, so to speak, direct himself properly in law. He must call his own attention to the matters, which he is bound to consider. He must exclude from his consideration, matters, which are irrelevant to what he has to consider. If he



does not obey these rules, he may truly be said and often is said "to be acting unreasonably". The very concept of administrative discretion involves a right to choose between more than one possible course of action upon which there is room for reasonable people to hold differing opinions as to which is to be preferred. Not every reasonable exercise of judgment is right, and not every mistaken exercise of judgment is unreasonable. The true question must always be whether the administrative authority has exceeded the power or whether it was a bona fide exercise of power.

It is pertinent to note here Rule 8 of Recruitment Rules 2003:-

"8. Relaxation of Academic Qualification/ Experience:

1. The academic qualification and experience in respect of the faculty posts are relaxable at the discretion of the Selection Committee. In order to enable the Selection Committee to interview the candidates with relaxed academic qualification, experience, the Screening Committee is authorized to call candidates with exceptional academic merit for interview in relaxation of the prescribed requirements.
2. For posts, which are advertised in the period from January to June of any calendar year, the effective date up to which the requisite experience must be completed will be 31st December, of that year. Similarly the post advertised from July to December the effective date up to which the requisite experience must be completed will be 30th June of the following year and so on."

It is the contention of the applicant that Rule 8 was misused. The persons, who were found to be disqualified, got selected on ad hoc basis. Pick and choose system was followed. The power of relaxation of academic qualification was utilized to bestow favour by diluting the requirement of academic excellence. In the case of **Food Corporation of India & Others v. Bhanu Lodh & Others, (2005) 3 SCC 618**, Hon'ble Supreme Court has held that power to relax the eligibility criteria is intended to be used in marginal cases, where exceptionally

qualified candidates are available. In the case of **State of Karnataka & Others v. R. Vivekananda Swamy, (2008) 5 SCC 328**, Apex Court has held that power of relaxation should be exercised in fair and reasonable manner.

32. Adverting to facts of the present case, we find that erstwhile Recruitment Rules of NEIGRIHMS were found to be inadequate for meeting the requirement of the institute and failed in attracting qualified and competent candidates for various posts meant for faculty members. We have also taken note of the fact that institute has issued 7 advertisements towards filling up 160 posts for the various faculty posts and has been able to recruit only 35 candidates against those advertisements. The expenditure incurred on such advertisements amounted to Rs.1,30,00,000/-. Various loopholes and deficiencies were highlighted in the Recruitment Rules on the basis of which, the Governing Council, which is the apex policy making body of the institute, considered the amendment of Recruitment Rules of faculty posts at par with Recruitment Rules of faculty posts of AIIMS and PGIMER. No cogent explanation was offered before us to explain why in the mid of these developments institute issued advertisements dated 20.09.2008 inviting applications as per the old Recruitment Rules.

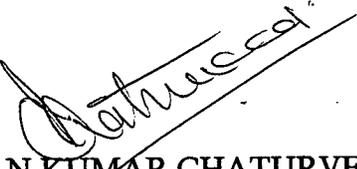
33. We have also taken note of the fact that a person, who got disqualified by the Screening Committee, got appointment on ad hoc basis. Indisputably, appointments were being made by using discretionary power. It was alleged before us that new rules are not yet implemented. No plausible explanation was offered for delay in implementing the amended rules, attempt was made to attribute the delay on the Ministry, but no communication was shown to us to demonstrate that what steps the institute took to expedite the



matter. We find that transparency is totally lacking in the working of the institute.

34. Taking into consideration the entire conspectus of the case, we find no justification in advertising the post on 20.09.2008 by which applications were invited on the basis of qualification prescribed under erstwhile Recruitment Rules for filling up of the various faculty posts in NEGRIHMS. As such, we quash the advertisement.

35. In the result, O.A. stands allowed. No costs.


(MADAN KUMAR CHATURVEDI)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

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IN THE GAUHATI HIGH COURT
THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
MANIPUR AND TRIPURA)

SHILLONG BENCH
CIVIL APPELLATE SIDE

Appeal from W.P. (C) No 15684/10 of 20

Civil Rule

Review of Judgement

Appellant
Petitioner

Versus

Dr. Deep Kumar Panda

Respondent
Opposite-Party

For Appellant Mr. B.N. Deka
Petitioner Mr R Deb Nath
C.A.C
For Respondent Mr K.S. Kanyaj
Opposite-Party Dr. Deka
Mr K. Bhow



Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	4

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THE HON'BLE MR JUSTICE T VAIPHEI
THE HON'BLE MR JUSTICE TNK SINGH
WP(C) 156(SH)2010

10.6.2010

Heard Mr BN Dutta, the learned senior counsel for the petitioners. Also heard Mr K Khan the learned counsel for the respondent No.1 and 2 and Mr KS Kynjing, the learned senior counsel for the respondent Nos. 3,4 and 5.

We have seen the order dated 28.05.2010 passed by the Central Administrative Tribunal, Gauhati Bench, and taken notice of the observations made therein. We also take note of the fact that the Tribunal has already reserved the case for judgment/final orders. We have also perused the order dated 09.02.2010 passed by us in WP(C) No.11(SH)2010 in which we expressed our hope and trust that the application for vacation of the interim order as well as the application for interim order would be disposed of by the Tribunal within one week from that day. Apparently, after this order was passed by us, the Tribunal had concluded final hearing of the case and reserved the case for final order/judgment. It is pointed out by the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent Nos. 3,4 and 5 that the Tribunal for one reason or the other is not inclined to dispose of the case and therefore prayed that their application for interim order as well as the application for vacation of the interim order passed by the Tribunal filed before the Court be disposed of today itself.

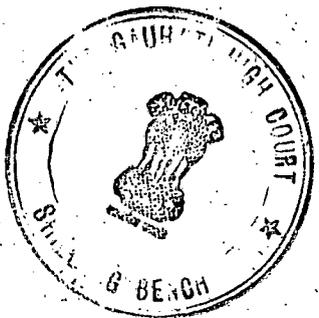


We have given our thoughtful consideration to the submissions made at the bar. However, considering the facts and circumstances of the case and also keeping in view the fact that the Tribunal has reserved the case for judgment, it would not be proper on our part not to wait for some more time. In the result, the hearing of the case, particularly the interim applications will be adjourned for one week, by which time it is expected that the Tribunal will finally disposed of the case pending before it. Should the case be not finally disposed of by the Tribunal in the

meantime, it shall be open to the parties to move this Court again for appropriate order.

Tag this case together with WP(C) No.63(SH)2010 for consolidated hearing.

A copy of this order be furnished to the learned counsel for the petitioners.



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JUDGE

[Signature]
JUDGE

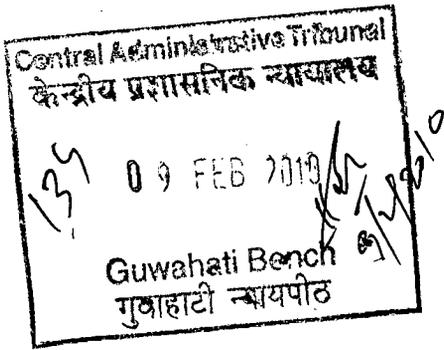
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TRUE COPY
[Signature] 10/6/10
Court Master
Gauhati High Court
Shillong Bench



Filed by 55
..... Yookarin Khonglah
..... Proforma Respondent No 5
Therough
Shirbadin Dilla
Advocate 9.2.2010

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH, GUWAHATI.



Khonglah

IN THE MATTER OF:-

MISC. CASE No. 6 of 2010

Arising out of

ORIGINAL APPLICATION No. 184 OF 2009

The Union of India & Ors.

.... PETITIONERS

-Vs-

Dr. Dilip Kumar Parida & Anr.

..... RESPONDENTS

An Affidavit-in-Opposition to the Application filed by the Union of India and Ors. as Petitioners in the instant Misc. Case arising out of O.A. No. 184 of 2009 praying for bringing on record the subsequent developments during the Pendency of the instant O.A. No. 184 of 2009, and urging upon this learned Tribunal to declare the instant proceedings under O.A. No. 184 of 2009 as infructuous.

I, Yookarin Khonglah, wife of Dr. Noor Topno, aged about 38 years, by profession an Assistant Professor in the Department of Pathology in NEIGRIHMS (NORTH EASTERN INDIRA GANDHI REGIONAL INSTITUTE OF HEALTH AND MEDICAL

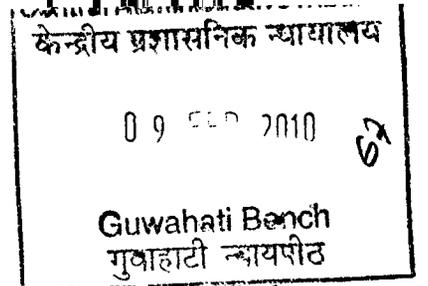
SHAH SYED SAMADUR RAHMAN
M.A., B.Ed., LL.B

NOTARY
Guwahati, Kamrup.
Regd. No.-KAM. 03

SCIENCES), Shillong and presently residing within the NEIGRIHMS Campus, Shillong-793018, Meghalaya; do hereby solemnly affirm and state as follows:-

1. That the Opposite Parties No.1 and 2 in the instant Misc. Case had filed the O.A. No. 184 of 2009 before this learned Tribunal and this learned Tribunal, by an Order dated 10/09/2009, admitted the instant Original Application and had also passed an Ex-parte ad-interim Order directing the Respondent Authorities not to proceed with the recruitment under the Advertisement dated 20/09/2008 (Annexure-8 to the O.A. No. 184 of 2009), granting liberty to the Respondents concerned to move for vacation/ alteration of the ad-interim Order well before the date fixed, i.e. 27/10/2009.
2. That your humble Proforma Respondent No.5 was not aware of the instant Misc. Application No. 6 / 2010 on 27/10/2009 and when she learnt about the same after 27/10/2009, she informed her appointed Counsel that she was not agreeable to submit herself to a fresh interview as she believed that she already stood qualified and there was no necessity to appear for a second Interview.
3. That your humble Respondent No.5 in the instant Misc. Case, states that on 19/10/2010, when the instant Misc. Case was filed and moved by the learned Counsel for the Respondent Authorities, for the first time, this learned Tribunal called upon the Private Respondents to submit their respective views on the ground that, if the Respondent Authorities forthwith decide the question of promotion of the parties concerned on the basis of the Order dated 31/12/2009 (Annexure-V to the instant Misc. Case), and subject themselves to a fresh interview, the Counsel of your humble Proforma Respondent No.5 in the instant Misc. Case, readily agreed to subject herself to such an interview, since she already stood qualified for promotion by the concerned

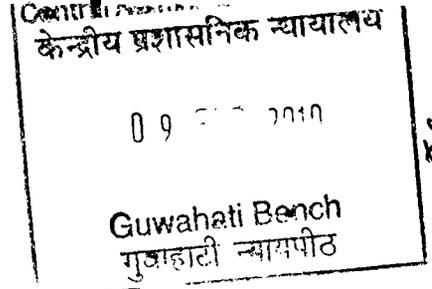
SHAH SYED SAMADUR RAHMAN
M.A., B.Ed., LL.B
NOTARY
Guwahati, Kamrup.
Regd. No:-KAM. 03



Authorities under the Rules of 2003 and that she will stand qualified, even if she is made to appear for a fresh interview.

4. That the Counsel of the instant Proforma Respondent No.5, at that point of time on 19/01/2010, having felt that this learned Tribunal could dispose of the instant O.A. No. 184 of 2009, had readily agreed to the passing of such an Order in the event all parties agreed. However, the learned Counsel for the instant Proforma/Opposite Parties No. 3 and 4 categorically opposed the submission of the Counsel appearing on behalf of the instant Proforma Respondent No.5, and accordingly this learned Tribunal recorded the said views, so that the Respondent Authorities take note of all the facts before passing an appropriate Order in respect of the instant dispute at hand.
5. That I, the instant Proforma Respondent/ Opposite Party No.5, after the passing of the Order of this learned Tribunal on 19/01/2010, subsequently received of a copy of the said Order dated 19/01/2010, noticed from the said Order that the letter No. F-No. V-16020/57/2008-ME-I dated 31/12/2009 issued by the Joint Secretary to the Government of India in the Ministry of Health and Family Welfare, Nirman Bhawan, New Delhi, was duly perused by me, and upon due consideration of the same, I am of the view that the said letter dated 31/12/2009 is of no relevance for the purpose of deciding the instant O.A. No. 184 of 2009.
6. That in view of what has been stated herein above, I would humbly submit to this learned Tribunal to hear the parties on merits and dispose of the instant O.A. No. 184 of 2009 by ignoring the irrelevant factors sought to be raised by the vested interests only to delay the grant of relief to me and my colleagues.
7. That it is evident from the aforesaid letter dated 31.12.09 that the subject concerned is Revision of Pay Scales of faculty of Autonomous

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 SHAH SYED SAMADUR RAHMAN
 M.A., B.ED., LL.B.
 NOTARY
 Guwahati, Kamrup.
 Regd. No:-KAM. 03

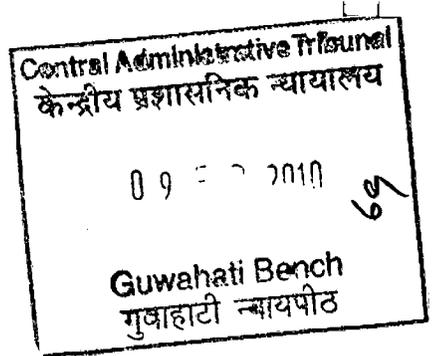


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M. S. Ghosh

Institution of Medical Education under the Department of Health and Family Welfare, Ministry of Health and Family Welfare, New Delhi, and the same does not cover the subject matter in dispute in the instant O.A. No.184 of 2009.

8. That in view of what has been stated herein above this learned Tribunal ought to confine itself to the basic pleadings in the instant O.A. in 184/09, where the impugned Advertisement dated 20/09/08 has not been specifically challenged before this learned Tribunal and the same being otherwise valid in law, the question of interfering with the decision process of selecting me as an Associate Professor in the Department of Pathology, cannot be a cause of concerned or challenged by the instant Application in O.A. No. 184/09, moreso, as they belong to other Departments of NEIGRIMS, and are liable to be considered for Promotion on the basis of the Rules of 2003, which still holds the field, in as much as the new Contemplated Rules of 2009, mitted on 22.09.08 are yet to be confirmed and implemented by the Concerned Authorities.
9. That in view of what has been stated herein above, the instant Misc. Case has no legs to stand on and is liable to be summarily rejected and the main O.A. No. 184 of 2009 ought to be disposed of on merits without any further undue delay.
10. That in view of the matter the instant Misc. Application No....6.....2010 arising out of O.A.No.184 of 2009 is liable to be summarily rejected and the instant O.A. No.184 of 2009 be heard on merits without any further delay.

S
SHAH SYED SAMADUR RAHMAN
M.A., B.Ed., LL.B
NOTARY
Guwahati, Kamrup.
Regd. No:-KAM. 07



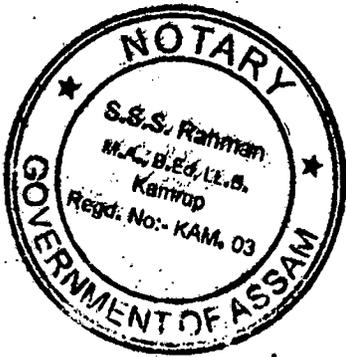
11. That the statements made in Paragraphs 1 to 5, 7, 8 & 19 are true to my knowledge, and the rest are my humble submissions before this learned Tribunal.

And I sign this Affidavit on this the 8th day of February, 2010.

Identified by:

Khonglah
DR. YOOKARIN KHONG LAH.
DEPONENT

Advocate



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8-2-10

Shah Syed Samadur Rahman
SHAH SYED SAMADUR RAHMAN
M.A., B.Ed., LL.B
NOTARY
Guwahati, Kamrup.
Regd. No:-KAM. 03

Annexure - III. (27)

उत्तर इंदिरा गांधी क्षेत्रीय स्वास्थ्य एवं आयुर्विज्ञान संस्थान, शिलांग
North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, Shillong
(भारत सरकार, स्वास्थ्य एवं परिवार कल्याण मंत्रालय, स्वायत्त संस्थान)

(An Autonomous Institute. Ministry of Health and Family Welfare. Government of India)

निदेशक ब्लॉक, मावडीयांगडीयांग, शिलांग - 793018 मेघालय

Director's Block, Mawdiangdiang, Shillong - 793018 Meghalaya

फोन नं/ Phone : (0364)2538013

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

www.neigrihms.nic.in

(फैक्स / Fax) 2538003

No NEIGR-E.II/19/2004/Pt.VI/

27 OCT 2009

Dated the 25th August 2009

To

Dr. Subrat Panda
Assistant Professor (O & G)
NEIGRIHMS, Shillong.

Guwahati Bench
गुवाहाटी न्यायपीठ

Sub: - Application for the post of **Associate Professor (Obstetrics & Gynaecology)**,
North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences,
Shillong.

Sir,

Please refer to your application for the post of **Associate Professor (Obstetrics & Gynaecology)**, North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences, Shillong.

You are provisionally allowed to appear for personal interview before the Standing Selection Committee of this Institute at **9.30 AM on the 8th September 2009 in the Chanakaya Hall, Samrat Hotel, Chankyapuri, New Delhi.**

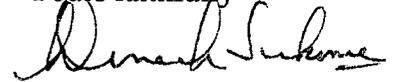
You are also requested to bring original copies of all documents/publications submitted along with your application relating to your qualification & experience.

In case you are employed under the Central or State Government or Public Sector undertaking/Autonomous body, you are required to produce **No Objection Certificate** from your present employer.

AC II tier train fare will be paid by the Institute for attending the interview on production of tickets. Kindly make your own arrangement for accommodation.

Please confirm your attendance by Phone No.-(0364) 2538010, 2538020 (Telefax), Mobil No. 9436311590 and e-mail: info.neigrihms.nic.in.

Yours faithfully



(D.A.J. Sawkmie)

Deputy Director (Admn)

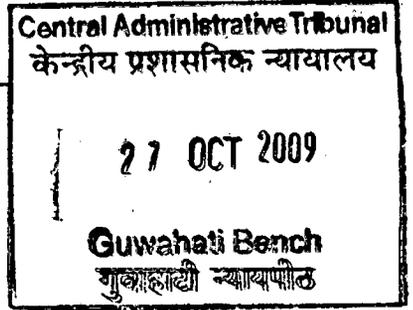
Annexure - IV

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH::

ORDER-SHEET



1. ORIGINAL APPLICATION No. : 184 /2009
2. Transfer Application No. :/2009 in O.A. No.
3. Misc. Petition No. :/2009 in O.A. No.
4. Contempt Petition No. :/2009 in O.A. No.
5. Review Application No. :/2009 in O.A. No.
6. Execution Petition No. :/2009 in O.A. No.

Applicant (S) : Dr. Dilip Kumar Parida & anr.

Respondent (S) : The Union of India & Ors.

Advocate for the
Applicant (S) : Mr. U.K. Nair

Advocate for the
Respondent (S) : Mr. B. Sarma & Mr. G.Z. Ahmed.

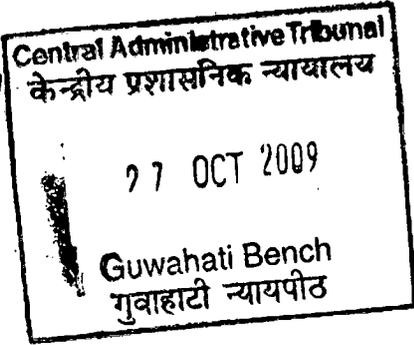
Advocate for the
(Respondent (S) :
CGSC.

Notes of the Registry Date Order of the Tribunal

10.09.2009 1. Heard Mr. U.K. Nair, learned counsel appearing for the applicants and perused the materials placed on record. A copy of the O.A. has also been supplied to Mr. K.K. Das, learned Addl. Standing Counsel for Govt. of India, who is present in court today.

2. It is the case of the Applicants that the old Recruitment Rules of NEIGRIHMS were not enough to attract talented persons to be the members of the faculty of the institute; for which steps were taken to amend the same/ to bring new/progressive Recruitment Rules. The old Rules were replaced by a set of new Recruitment Rules, on 22nd September, 2008, by the Governing Council of the institute. It is stated that 2 days prior to the introduction of the new Recruitment Rules, an advertisement was issued on 20th September, 2008 to recruit the members of the faculty; as a result of which more qualified persons have been found to be not eligible to participate in the final recruitment. In the advertisement, the effective date, upto which the requisite experience must be completed, was 30th June, 2009.

Copied to be for copy.
Wah



3. Mr. U.K. Nair, learned counsel appearing for the Applicant has argued that the advertisement for the post, under the old Rules, has got no reasonableness and that only demonstrates 'bias' mind of the concerned authority. It is also his case that while granting relaxation in favour of a few candidates, such relaxation has not been acceded to in favour of the Applicants.

4. Learned Counsel for the Applicant has argued that there was a miscarriage of justice in issuing advertisement on 28th September, 2008; especially when the decision was already taken to replace the old Recruitment Rules, by a new Recruitment Rules. Learned counsel submitted that the norms of equality were not maintained and as such, there was violation of the Article 14 of the Constitution of India.

5. In the aforesaid premises, a prima facie case having been found in favour of the Applicants, we admit this case.

6. Notices be issued to the Respondents requiring them to file their reply/written statement/ counter in this case by 27.10.2009.

7. As an ad-interim measure, we direct the Respondents not to proceed with the recruitment under advertisement dated 20.09.2008 that has been placed at Annexure-8 to this O.A.

8. While passing the above ad-interim order, we grant liberty to the Respondents to move for vacation/ alteration of the ad-interim order well before the date fixed / 27.20.2009.

9. Send copies of this Order to the Respondents (along with notices) by Speed Post; at the cost of the applicants. Mr. U.K. Nair undertakes to deposit the cost of the Speed Post in course of the day. Free copies of this Order be also supplied to the learned counsel appearing for the parties.

Sd/-
M.R. Mohanty
Vice Chairman

Sd/-
M.K. Chaturvedi
Member (A)

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
27 OCT 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

Annexure - V

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ANNEXURE - 7

By FAO

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U 12012/70/2007 NE
Ministry of Health and Family Welfare
(North East Division)

Nirman Bhavan
New Delhi 110103

Date 11th Sep '08

To,

The Director
NEIGRIHMS
Shillong 793018
Meghalaya
Form No. 342-A N.E.

Subject: 10th Meeting of the Governing Council of NEIGRIHMS, reg;-

Sir,

I am directed to inform you that the Hon'ble Minister for Health and Family Welfare has desired that the 10th meeting of the Governing Council of NEIGRIHMS be held on 22nd Sep '08 at 5.00 p.m. in Nirman Bhavan, New Delhi.

It is requested that necessary action in this respect may kindly be taken by the Director, NEIGRIHMS, immediately.

Yours faithfully

(G.R. Kherwal)

Under Secretary to the Government of India
TeleFax: 23061203

EST-11
11/9/08

Authorized to be handled by
Mr. K. Sanyal

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27 OCT 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

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Minutes of the adjourned meeting of the 10th Meeting of the Governing Council of North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences (NEIGRIHMS), Shillong held in the Conference Room, Nirman Bhavan, New Delhi at 5.30 pm on 22nd September 2009.

Members Present:

1. Dr. Anbumani Ramadoss : President
Hon'ble Union Minister of Health & Family Welfare, Government of India.
2. Dr. A. Pariong : Member
Hon'ble Health Minister, Govt. of Meghalaya
3. Shri Kuzholuzo : Member
Hon'ble Health Minister, Govt. of Nagaland
4. Shri Naresh Dayal : Member
Secretary (Health & FW), Govt. of India
5. Dr. R.K. Srivastava : Member
DGHS, Government of India
6. Shri Naved Masood : Member
Addl. Secretary & FA
Ministry of Health & Family Welfare
7. Shri R.S. Dhaliwal : Member
S.C.E., ICMR
8. Smt. Jayashree Mukherjee : Member
Joint Secretary, DONER
9. Mrs. R.M. Bathew : Member
10. Shri H.W.T. Syiem : Member
11. Dr. C. Silvern : Member
12. Dr. R.N. Salbau : Member
Secretary
Director, NEIGRIHMS

Handwritten notes:
By Secy
Per Dept

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Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

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Special Invites:

1 Shri B.K.Prasad
Joint Secretary
Ministry of Health & Family Welfare

2 Shri V.C.Sharma
CMD, HSCC.

Other officials:

1 Shri D.A.J.Sawknie
Deputy Director (Admin)
NEIGRIHMS

2 Shri D.T.Umdor
Executive Engineer (Civil)
NEIGRIHMS

Member absent:

1. Hon'ble Minister of Health, Government of Manipur, Imphal
2. Hon'ble Minister of Health, Government of Sikkim
3. Secretary Education, Ministry of Human Resource & Development
4. Secretary, Planning Commission or representative
5. Secretary, North Eastern Council, Shillong
6. Vice Chancellor, North Eastern Hill University, Shillong
7. Commissioner & Secretary Health, Government of Assam
8. Commissioner & Secretary Health, Government of Arunachal Pradesh
9. Commissioner & Secretary Health, Government of Tripura
10. Commissioner & Secretary Health, Government of Mizoram
11. Director, All India Institute of Medical Sciences
12. Director, PGIMER, Chandigarh
13. President, Medical Council of India
14. Shri Nabam Rebia, Hon'ble Member of Rajya Sabha
15. Shri Kirip Chaliaha, Hon'ble Member of Lok Sabha
16. Dr.Hem Kumar Tewari

(1) Vice Chancellor, NEHU & (2) Director, PGIMER had expressed their inability to attend because of their preoccupation.

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The Hon'ble Union Minister of Health & Family Welfare and Governing Council, North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, Shillong Dr. Anbumani Ramadoss welcomed the members of the Governing Council.

The President, Governing Council informed the members that though the Governing Council meeting was being held after more than a year, he was personally monitoring the progress of NEIGRIHMS, through regular review meetings with the officers of the Ministry and NEIGRIHMS. He also informed the members of the Council, that he had visited NEIGRIHMS along with the Parliamentary Committee on Health in June 2007. During the visit of the Parliamentary Committee, it was decided that NEIGRIHMS would start MBBS programme in the Academic Year 2008-2009. The Hon'ble President observed that he was happy that NEIGRIHMS has started the MBBS programme from the current academic year 2008-09 with an annual intake of 50 students as per schedule. The Hon'ble President informed the member that this was the first MBBS College in the State of Meghalaya in the North East. The annual intake in the College, would be increased to 100 in the next year. The members were told that the Ministry of Health & Family Welfare was extending all support, for establishing NEIGRIHMS as an Institute of Excellence.

After a brief introduction by the Director, NEIGRIHMS, the Agenda items were taken up one by one.

Agenda Item No.1:
Confirmation of the minutes of the 9th Governing Council Meeting held on 17.04.2007.

No comments was received on the Minutes of the 9th Governing Council held on 17.04.2007, which were circulated to all members vide Institute's letter No. NEIGR-3/89/Pt. II dated 5th July 2007. Therefore the Minutes were taken as confirmed by the Council.

Agenda Item No.2:
Review of Action Taken on the minutes of the 9th Governing Council meeting held on 17.04.2007.

The Member Secretary gave details on the Action Taken on the minutes of the 9th Governing Council held on 17th April 2007. As regards the

27 OCT 2009

Guwahati Bench
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establishment of Dharamshala in NEIGRIHMS, the President, Governing Council directed that the Dharamshala should have dormitories accommodation for 100 patients/relatives with common kitchens and toilets besides some single rooms as in Safdarjung Hospital, New Delhi. With these observations, the action taken report was noted by the Council.

Agenda Item No.3:

Consideration of the present status of NEIGRIHMS.

The Member Secretary briefed the Council on the present Status of the Institute. The members were informed that the Institute had started U.G.Courses, patients both OPD. & In-door had increased and that sophisticated equipment in the department of Cardiology, CTVS, Urology, Orthopaedics etc. had been commissioned.

The following observations and suggestion were made by the Hon'ble members of the Council.

The Hon'ble Health Minister, Government of Meghalaya informed that he had learnt that there was a shortage of the Anaesthetists in the Institute. This was hampered the functioning of the surgical departments which were allotted only one day a week for Surgeries. He also pointed out to the need of having Cardiac Anaesthetists for the CTVS department. He further informed that he had also learnt that NEIGRIHMS did not have a sanctioned post of Perfusionist. The Member Secretary explained that the Institute has appointed one Perfusionist on contract basis since 14.07.2008. The Member Secretary also informed the Council that NEIGRIHMS is having only 6 sanctioned posts of faculty in the department of Anaesthesiology. At present one Professor, one Associate Professor and two Assistant Professor of Anaesthesiology have been appointed. Offer of appointment for the post of Associate Professor, Anaesthesiology was issued to Dr.B.K.Biswas but he has yet to join the post. The DGHS, Government of India observed that around 20 Anaesthesiologist are required for 14 OTs to be commissioned in NEIGRIHMS. The Secretary Health & Family Welfare observed that since NEIGRIHMS would be having 14 OTs a proposal should be sent by the Institute to the Ministry, for sanctioning more posts for the Department of Anaesthesiology.

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The Members of the Council concurred with these observations and were of the opinion that more faculty posts in the department of Anaesthesiology be sanctioned.

Member Secretary further informed the Council that B.Sc Nursing College in NEIGRIHMS has started in July 2006. The Nursing College was the first Graduate level Technical Institute, in the State of Meghalaya. The third batch with an intake of 50 students per batch, has been enrolled in the Nursing College. The Council was also informed that the EFC proposal for constructing additional Nursing Hostel and Building, to increase the annual intake from 50 to 100, had been submitted to the Ministry for approval.

The Member Secretary also informed the Council, that the EFC for the MBBS College building hostels etc., with capacity for annual intake of 100, is in the final stage of preparation by HSCC, and would be submitted to the Ministry shortly.

The President, Governing Council directed, that we should aim that in future the annual intake for MBBS should increase to 150-200.

The President, Governing Council enquired from the CMD of HSCC about the average room size in the proposed MBBS hostel. The CMD of HSCC informed that the size of each room as per design was 8' X 10'. The members felt that the room size would not be adequate, considering that each room had to accommodate a bed, ward robe, tables and chairs. HSCC was asked to modify the design of the rooms and made them larger.

The President, Governing Council also enquired the starting of the Radiotherapy department in the Institute. This was essential since Cancer was the widely prevalent in the North East. The Member Secretary informed the Council that the EFC proposal for establishment of RCC, had been submitted to the Ministry for approval. The members were of the opinion, that the RCC and Radiotherapy department should be started in the shortest possible time. As an interim measure a Cancer Ward should be started within the existing infrastructure with the latest radiotherapy equipments.

The Member Secretary informed the members that the Institute did not have a sanctioned post of Medical Superintendent. The President, Governing Council expressed the view that a full time Medical Superintendent was necessary for such a huge hospital. He directed the Member Secretary to send a proposal to the Ministry for creation of the post of Medical Superintendent.

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Excellence when National Institute like AIIMS, PGIMER & JPMER were not notified.

The President, Governing Council enquired from the JS (M.E) about the procedure adopted in RIMS, Imphal for allotment of MBBS seats to various North East States. It was explained that as RIMS, Imphal was a Regional Institute, the respective State Governments nominated/selected their own students for studying MBBS in RIMS.

The President, Governing Council was of the opinion that if it was conducted in a transparent manner, as per guideline issued by Ministry of Health & Family Welfare, then admission could be left to respective State Governments, by adopting an admission procedure at par with that followed for the common N.E. open seats.

After detailed deliberations, the Council decided that in respect of these 4 States i.e. Meghalaya, Mizoram, Nagaland and Arunachal Pradesh the respective State Governments may select their own students. The selection procedure should be purely on merit. NEIGRIHMS/Ministry of Health & Family Welfare, Government of India, would guide the States in the admission process, to ensure uniformity in the method of selection. There would however be a common admission test, conducted by NEIGRIHMS to fill up the seats under N.E. open Quota.

Agenda Item No.5:

To consider amendment of the Memorandum of Association of the Institute.

The Council approved for the amendment of the Memorandum of Association of the Institute in respect of the objects to include a Sub-clause as 'To provide Under-Graduate Medical Education & Training' as reflected in the Agenda.

Agenda Item No.6:

To consider amendment of the Recruitment Rules of Faculty posts at par with Recruitment Rules of Faculty posts of AIIMS & PGIMER.

The Member Secretary informed the Council that in the existing Recruitment Rules for Faculty posts, there were grey areas in matters like qualification, experience etc. for different category of posts. The present recruitment rules also did not give weightage to research. He also informed

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The Council, that in order to attract faculty from eminent Institute and also to promote research, the existing Recruitment Rules for Faculty posts may be modified, amendment as per the Recruitment Rules of faculty posts of AIIMS, New Delhi and PGIMER, Chandigarh.

After discussion, the Council approved the amendment of the Recruitment Rules of faculty posts in NEIGRIHMS at par the Recruitment Rules of faculty posts of AIIMS, New Delhi and PGIMER, Chandigarh. The Council also decided that a detailed proposal for creation of additional posts required for starting MBBS may be submitted to the Ministry.

Agenda Item No.7:

To consider amendment of Clause 18(b) of the Bye Laws of the Institute relating to enhancement of the age of superannuation of the teaching faculty for 62 years to 65 years.

The Member Secretary informed the Council, that as per Clause 18 (b) of the Bye-Laws of the Institute the age of superannuation of the teaching faculty is 62 years. The Ministry of Health & Family Welfare has conveyed the approval of the Cabinet to enhance the age of superannuation of teaching specialists of Medical Institutions under Ministry of Health & Family Welfare including NEIGRIHMS from 62 years to 65 years. The Ministry has requested the Institute, to take necessary action for implementation of the Cabinet's decision. The Council noted the Cabinet decision, and approved the amendment of Clause 18(b) of the Institute's Bye-laws raising the superannuation of teaching faculty from 62 years to 65 years.

Agenda Item No.8:

Implementation of Assessment Promotion Scheme for the faculty members.

The Member Secretary informed the Council that in the last Governing Council meeting held on 17th April 2007 the Council was of the opinion, that as an incentive to faculty members, Assessment Promotion Scheme applicable to the faculty of AIIMS, New Delhi and PGIMER, Chandigarh be also made applicable to the faculty of NEIGRIHMS. The Ministry vide letter dated 14.3.2008 has also informed that the Ministry of Finance had approved the implementation of Assessment Promotion Scheme as applicable in AIIMS & PGIMER for the faculty at NEIGRIHMS.

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Member Secretary also informed the Council that implementation of Assessment Promotion Scheme at par with AIIMS & PGIMER would do away with the stagnation of faculty member in one post for several years.

The Council approved the implementation of Assessment Promotion Scheme for the faculty at NEIGRIHMS as applicable to AIIMS & PGIMER, subject to a condition that faculty promoted under Assessment Promotion Scheme could not be HOD of their respective departments. The Council also approved creation of the post of Additional Professor in the pay scale of Rs.16400-450-20900/- as in AIIMS & PGIMER. Shri Naved Masood, Addl. Secretary J. F.A. informed the Council that the proposals would have been examined by the Internal Finance Division of the Ministry before implementation.

Agenda Item No.2:

Consideration for payment of Non-Practising Allowance (NPA) from the date of joining of the faculty members of the Institute.

The Member Secretary informed the Council that 11 (eleven) faculty posts were sanctioned vide Ministry letter dated 17.02.1997 with 25% NPA but faculty posts sanctioned subsequently numbering 130 vide Ministry's letters dated 12.05.2003 and 08.09.2005 were sanctioned without NPA. Faculty who joined the posts sanctioned vide letter dated 17.2.97 were drawing NPA from the date of joining, while faculty who simultaneously joined against the posts sanctioned vide letters dated 12.05.2003 and 08.09.2005, were allowed to draw NPA from 2.8.2006 only. This had created anomalies in the pay drawn. The faculty have submitted representation to the Ministry, expressing resentment against this discrimination. They had also moved CAT against these anomalies. The Member Secretary also informed the Council, that the amount of unpaid NPA from the date of joining till 1.8.2006 is amounting to Rs.10,69,595 in respect of 8 (eight) faculty only.

The Council approved payment of unpaid NPA to 8 (eight) faculty members of NEIGRIHMS with effect from the date of their joining till 1.8.2006.

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Agenda Item No. 10:
Re-iteration of the Grant of Non-Resident Allowance (NRA) to the faculty members of the Institute.

The Council ratified payment of NRA to the faculty members w.e.f. 2.8.2006 as specified in the Ministry's letter No.U.12012/27/02--ME-III/NE dated 29.2.2006.

Agenda Item No. 11:
To consider delegation of Power to the Director - Addition of one Sub Clause to Clause 23(a) of the Bye-Laws of the Institute.

The Member Secretary informed the Council, that the Institute was facing hardship in recruiting senior faculty member e.g. Professor and Associate Professor in various departments. As there was no response to these advertisements for faculty posts, the institute was proposing filling up these vacant posts with retired faculty members on contract for a fixed term, till the age of 65 years at a consolidated pay. At present as per the existing Bye-Laws, the power for appointment of the faculty on contract lying with President, Governing Council. However it was experienced that obtaining the approval of the competent authority, for recruitment of faculty was being time consuming. The Member Secretary sought the approval of the Council, to delegate the power by amendment of the Clause No.23 of the Bye-Laws of the Institute to the Director of the Institute for appointment of retired senior faculty members on contract basis, for a fixed term till the age of 65 years, while the efforts to recruit regular faculty continues.

After discussion, the Council approved the proposal for appointment of retired senior faculty members on contract basis, for a fixed term till the age of 65 years at a consolidated pay as follows.

- 1. Professor Rs.1,00,000/- per month
- 2. Associate Professor Rs.80,000/- per month

Shri Paved Mazood, Addl. Secretary & FA stated that the proposal for payment of consolidated pay to faculty on contract would have to be examined by the Internal Finance Division for its implementation.

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The Council also approved the amendment of Clause 23 of the Institute's Bye laws as reflected in the agenda.

Agenda Item No.12:
To consider selection of Faculty Members in absentia.

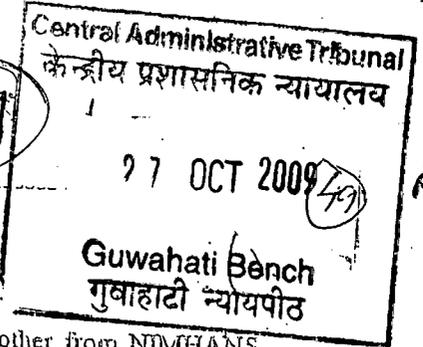
The Member Secretary informed the Council that at present the Institute was recruiting candidates for faculty posts on the basis of personal interviews conducted by the Standing Selection Committee of the Institute. In some cases, the candidates with exceptional academic qualification, could not appear for the interviews, on the date due to various factors like illness, attending conferences/training abroad etc. In view of the poor response of eligible candidates to interviews conducted by the Institute, the Member Secretary sought the approval of the Council for assessing such candidates, without their personal appearance before the Selection Committee. They would be assessed on their basis of their bio-data, academic qualification, publication etc. However the President, Governing Council was of the opinion that since such a procedure of selection was not adopted in AIIMS, PGIMER & JIPMER, it would be premature to implement it at NEIGRIHMS at present.

After deliberation, the Council did not approve the proposal.

Agenda Item No.13:
Collaboration with NIMHANS and M/s Frontier Lifeline to run super speciality departments in NEIGRIHMS.

The Member Secretary informed the Council that the Union Minister of Health & Family Welfare Dr. Anbumani Ramadoss had held a Review Meeting on 23.10.2007 to operationalize Super Speciality departments in NEIGRIHMS. The Ministry had also invited the heads of eminent Institutions, in both the Public and Private Sector for the meeting. This meeting was attended by Dr.K.M.Cherian, Chairman and CEO International Centre in Cardio Thoracic and Vasoular disease. Dr.S.Bhattacharjee, Director, CMC Vellore, Dr.Nagarajan, Director NIMHANS Bangalore, Dr.Talwar, Director PGIMER, Chandigarh and Senior Officials of the Health Ministry and NEIGRIHMS. The Minister had requested heads of the various Institutes to suggest ways and means to operationalize Super Speciality Services in the Institute. He informed that there were two

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proposals, one from M/s Frontier Lifeline and the other from NIMHANS Bangalore. The proposals were as follows:

Dr. Nagarajan, Director of NIMHANS, Bangalore had proposed that sanctioned posts of NEIGRIHMS in the department of Neurosurgery and Neurology which were vacant be transferred permanently to NIMHANS, Bangalore. NIMHANS would recruit faculty against these vacant posts. These faculty would be then posted in NEIGRIHMS on rotation of 6 to 8 months. The Faculty from NIMHANS, apart from providing super speciality services would also start Post Graduate Programmes in their respective departments.

With regard to the transfer of sanctioned posts in the department of Hematology and Neuro Surgery to NIMHANS, the majority of the members were of the opinion that such a proposal may not be feasible at present. The Institute should explore other means to operationalize these departments by offering additional incentive to faculty, wide publicity etc.

The member were also informed that the Institute had signed a Memorandum of Agreement dated 22.2.2008 with M/s Frontier Lifeline to operationalize the departments of Cardiology and CTVS. As per this agreement M/s FLL would provide following services.

- a. extend technical and manpower support to operationalise the departments of Cardiology, Cardio Thoracic & Vascular Surgery of NEIGRIHMS.
- b. impart training and required exposure in the realm of Cardiology, Cardio Thoracic & Vascular Surgery to the concerned manpower of NEIGRIHMS so that they could extend their healing mission to the people of North East Region, and
- c. provide their expert advise in setting up required infrastructure for operationalising the departments of Cardiology, Cardio Thoracic & Vascular Surgery of NEIGRIHMS.

NEIGRIHMS as per the agreement would pay salaries to consultant and staff of M/s FLL as per equivalent pay scale of NEIGRIHMS. NEIGRIHMS would pay for the Travelling Cost of the consultants/staff from Chennai to Shillong & vice versa besides also bearing for fooding and lodging cost. A Hemo Graft Valve would be set up at NEIGRIHMS, with expertise from

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M/s FLL, NEIGRIHMS would bear the cost 25% of the valves would be used by M/s FLL.

The Council after deliberation was of the view that since the department of Cardiology and CTVS in NEIGRIHMS had already started functioning, the Agreement may be put on hold for the time being.

Agenda Item No.14:

Consideration of the recommendations/decisions of the 19th, 20th, 21st, 22nd, 23rd, 24th, 25th & 26th SFC of the Institute.

The Council approved the minutes of the 19th, 20th, 21st, 22nd, 23rd, 24th, 25th & 26th meeting of the Standing Finance Committee and also approved the action taken by the Institute to implement the decision ex-post facto.

Agenda Item No.15:

Consideration of the Annual report 2004-2005 & 2005-2006 and Audited statement for the year 2004-2005 & 2005-2006 of NEIGRIHMS

The Council adopted the Annual Report and Audited Statement of Accounts of the Institute for the year 2004-2005 and 2005-2006.

Agenda Item No.16:

Consideration of the Revised Budget Estimate for 2005-2006 & 2006-2007 and Budget Estimate for 2006-2007 & 2008.

The Council approved ex-post facto the Revised Budget Estimate for 2005-06 and 2006-07 and Budget Estimates for the year 2006-07 and 2007-08 of the Institute.

Agenda Item No.17:

Consideration of the recommendations/decisions of the Planning Committee of the Institute in its 6th Planning Committee meeting.

The Council approved the minutes of the 6th Planning Committee held on 28th November 2005 and also approved the action taken by the Institute to implement the decision ex-post facto.

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Agenda Item No.18:

To consider approval for the collection of User Charges.

The Council approved the proposal, to start collecting hospital charges and investigation charges from the patient as per the rate of PGIMER, Chandigarh or AIIMS, New Delhi which ever is lowest. The collection of user charges would be made after the hospital is formally inaugurated.

Agenda Item No.19:

Proposal for Guest House in new Delhi

The Council approved for hiring of a 2 to 3 bed room flat in New Delhi for use by the Institute as a Guest House. It was suggested, by the Secretary Health & Family Welfare, that the Guest House should be located at Dwaraka as it was close to the Airport.

Agenda Item No.20:

Implementation of Government's decision on the recommendations of the 6th Central Pay Commission revision of Pay and Allowances.

The Council was of the unanimous view, that the recommendation of the Sixth Pay Commission as approved by the Government, be made applicable to the employees of NEIGRIHMS. However the Revised Pay Scale would be implemented subject to issue of relevant orders by the Ministry of Finance extending the benefits of the Sixth Pay Commission, to Autonomous Organisation under Government of India.

Agenda Item No.21:

Ratification for extension of service (on contract) of Dr. Biona Kharrubon, Professor, Radiodiagnosis

The Council approved ex-post facto the appointment of Dr.B.Kharrubon on contract basis as Professor, department of Radiodiagnosis till 17.4.2009.

Agenda Item No.22:

Ratification of the reconstitution of the Standing Finance Committee

The Council ratified the action taken by the President, Governing Council to increase the membership of the Standing Finance Committee of NEIGRIHMS from the existing 8 to 10 members by inclusion two additional

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members (1) Secretary (Health & Family Welfare) and (2) Additional Secretary & Project Director, National Rural Health Mission (NRHM).

The Council also approved, ex-post facto the nomination of Secretary (Health & Family Welfare), as the Chairman of the Standing Finance Committee in place of Director General of Health Services.

Agenda Item No.23:

Ratification of the appointment of Dr. R.K. Sarma as Acting Director, Professor and regular Director, NEIGRIHMS.

The Council approved ex-post facto the appointment of Dr.R.K.Sarma, Professor & Head of the Department of Hospital Administration, AIIMS, New Delhi as the Director of the Institute for the period from 6.12.2005 to 29.2.2008 (attending the age of 62 years).

Agenda Item No.24:

Ratification of extension of the term of Mrs. R.M. Bathew as Member of Governing Council of NEIGRIHMS.

The Council ratified the re-nomination of Mrs.R.M.Bathew as member to the Governing Council as well as to the Chairpersonship of the Standing Selection Committee for Group A posts in the Institute for a period of 5 years w.e.f. 7th November 2005.

Agenda Item No.25:

Ratification for nomination of Additional Co-Chairpersons to the Standing Selection Committee of NEIGRIHMS

The Council ratified the nomination of the Vice Chancellor (NEHU) and/or Secretary (NEC), to act as Co-chairperson of the Standing Selection Committee constituted for recruitment of faculty members and other Group A posts in the Institute, during the period of non-availability of the Chairman Standing Selection Committee.

Annexure - I (14)

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North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, Shillong, Mawdiangdiang-793018

ADVERTISEMENT NO. NEIGR-15/2004 Dated 17.10.2007

Applications are invited on prescribed form by the Director, North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, from Indian Citizen for the following posts mentioned below.

Sl.No.	Speciality	Name of Post	No. of Posts	Essential Qualification & Experience:
1	Cardiology	Professor	1	i. A medical qualification included in the first or third schedule or part-II of the third schedule to the Indian Medical Council Act of 1956 (person possessing qualifications included in the part-II of the third schedule should also fulfil the conditions specified in the sub section (3) of the section 13 of the Act., ii. D M (Cardiology) recognised by the MCI, iii. 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of D. M.
		Assistant Professor	1	i & ii same as Professor Cardiology, iii. At least 3 years teaching experience as Sr. Resident/ Tutor/ Registrar/ Demonstrator in the concerned speciality in recognised Medical College/Teaching Institution.
2	Gastroenterology	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. D M (Gastroenterology)/D.M (Medical Gastroenterology)/M D (Medicine) or M D (Paediatrics) with two years special training in Gastroenterology, iii. At least 4 years teaching experience as Associate Professor/Reader in the concerned speciality in recognised Medical College/Teaching Institution after obtaining the qualifying degree of D.M.
		Associate Professor	1	i & ii same as Professor Gastroenterology, iii. At least 2 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in recognised Medical College/Teaching institution.
		Assistant Professor	2	i & ii same as Professor Gastroenterology, iii. At least 3 years teaching experience as Sr. Resident/ Tutor /Demonstrator / Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
3	CTVS	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M.Ch. (Cardio Thoracic Surgery/Cardio Vascular Thoracic Surgery, Cardiac Surgery/Vascular Thoracic Surgery/Vascular Surgery) recognised by MCI, iii. At least 4 years teaching experience as Reader/ Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of M.Ch.
		Assistant Professor	1	i & ii same as Professor CTVS, iii. At least 3 years teaching experience as Sr.Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
4	Gastro Intestinal Surgery	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M.Ch. (Gastro Intestinal Surgery)/MS (Surgery) with 2 years special training in Surgical Gastroenterology, iii. At least 4 years teaching experience as Associate Professor/Reader in a recognised Institution in the subject of speciality after obtaining the qualifying degree of M.Ch.
		Assistant Professor	1	i. & ii Same as Professor G.I.Surgery, ii. M.Ch. (Gastro Intestinal Surgery) or M.S.(Surgery) with 2 years special training in Surgical Gastroenterology, iii. At least 3 years teaching experience as Sr.Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
5	Neuro Surgery	Associate Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M.Ch (Neuro Surgery) recognised by the MCI, iii. At least 2 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in recognised Medical College/Teaching Institution.
		Assistant Professor	2	i & ii same as Associate Professor Neuro Surgery, iii. At least 3 years teaching experience as Sr.Resident/ Tutor/ Demonstrator/ Registrar in the concerned speciality in recognised Medical College/Teaching Institution.

Authenticated to be true copy,
Ward

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6	Neurology	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology. ii. D M (Neurology) recognised by the MCI, iii. At least 4 years teaching experience as Reader/ Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of D. M.
		Assistant Professor	1	i & ii same as Professor Neurology, iii. At least 3 years teaching experience as Senior Resident/ Tutor/ Demonstrator/ Registrar in the concerned speciality in recognised medical college.
7	Nephrology	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology. ii. D M (Nephrology) recognised by the MCI, iii. At least 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of D. M.
		Associate Professor	1	i & ii same as Professor Nephrology, iii. At least 2 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in recognised Medical College/ Teaching institution.
		Assistant Professor	2	i & ii same as Professor Nephrology, iii. At least 3 years teaching experience as Registrar/Sr.Resident/ Tutor/Demonstrator in a recognised Institution in the concerned speciality in recognised Medical College.
8	Urology	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology. ii. M.Ch. (Urology) recognised by MCI, iii. 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of M Ch.
		Assistant Professor	2	i & ii same as Professor Urology, iii. At least 3 years teaching experience as Senior Resident/ Tutor/ Demonstrator/ Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
9	Pathology	Associate Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. MD (Pathology)/Ph.D. (Pathology)/ D.Sc.Pathology degree recognised by MCI, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in recognised Medical College/Teaching Institution.
		Assistant Professor	1	i & ii same as Associate Professor Pathology, iii. At least 3 years teaching experience as Senior Resident/ Tutor/ Demonstrator/ Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
10	Anaesthesiology	Associate Professor	2	i same as sl.No.1(i) Professor Cardiology. ii. M.D/M.S (Anaesthesiology) recognised by MCI, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in recognised Medical College/Teaching Institution.
		Assistant Professor	2	i & ii same as Associate Professor Anaesthesiology, iii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
11	Radio Diagnosis	Assistant Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M.D/M S (Radio Diagnosis/Radiology) recognised by MCI, iii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
12	Orthopaedics & Trauma	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M S (Orthopaedics) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor in the concerned speciality in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor Orthopaedics & Trauma, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
13	Obstetrics & Gynaecology	Associate Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M.D /M S (Obstetrics & Gynaecology) recognised by MCI, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
14	General Medicine	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M D (Medicine/ General Medicine) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor in the concerned Speciality in a recognised Medical College/Teaching Institution.

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15	Paediatrics	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M D (Paediatrics) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/ Reader in the concerned Speciality in a recognised Medical College
16	Anatomy	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. MS (Anatomy) or MD (Anatomy) or M.Sc (Anatomy) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/ Reader in the concerned Speciality in a recognised Medical College
		Associate Professor	1	i & ii Same as Professor Anatomy, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	2	i) MS (Anatomy) or MD (Anatomy) or MBBS with M.Sc (Anatomy) or M.Sc.(Medical Anatomy) with Ph.D.(Medical Anatomy or M.Sc.(Medical Anatomy) with D.Sc.(Medical Anatomy) recognised by MCI, ii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
17	Biochemistry	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M.D (Biochemistry) or M.Sc.(Medical Biochemistry), iii. At least 4 years teaching experience as Associate Professor/ Reader in the concerned Speciality in a recognised Medical College.
		Associate Professor	1	i & ii Same as Professor Biochemistry, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	2	i. M.D (Biochemistry) or MBBS with M.Sc.(Medical Biochemistry) or M.Sc. (Medical Biochemistry) with Ph.D.(Medical Biochemistry) or M.Sc.(Medical Biochemistry) with D.Sc. (Medical Biochemistry) recognised by MCI, ii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
18	Community Medicine	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M D (Community Medicine) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/ Reader in the concerned Speciality in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor Community Medicine, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	1	i. & ii Same as Professor Community Medicine, iii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
19	ENT	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M.S (ENT) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/ Reader in the concerned Speciality in a recognised Medical College.
		Associate Professor	1	i & ii same as Professor ENT, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	2	i & ii same as Professor ENT, iii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
20	Ophthalmology	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. MD or MS (Ophthalmology) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/ Reader in the concerned Speciality in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor Ophthalmology, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	2	i & ii same as Professor Ophthalmology, iii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
	Physiology	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M D (Physiology) or M.Sc.(Physiology) recognised by MCI, iii. At

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				least 4 years teaching experience as Associate Professor/Reader in the concerned Speciality in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor Physiology, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	1	i & ii same as Professor Physiology, iii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
22	Pharmacology	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M.D (Pharmacology) or Ph.D.(Medical Pharmacology) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/ Reader in the concerned Speciality in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor Pharmacology, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	2	i. M.D (Pharmacology) or MBBS with Ph.D.(Medical Pharmacology) or M.Sc.(Medical Pharmacology) with Ph.D.(Medical Pharmacology) or M.Sc.(Medical Pharmacology) with Ph.D.(Medical Pharmacology) or M.Sc.(Medical Pharmacology) with D.Sc.(Medical Pharmacology) recognised by MCI, ii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
23	Hospital Administration	Professor cum Medical Superintendent	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M.D.(Hospital Administration) or M.D.(Community Health Administration) or M.D. (Health Administration) recognised by MCI, iii. At least 4 years teaching experience as Reader/Associate Professor in Hospital Administration/Community Medicine/SPM/Health Administration in a recognised Medical College/Teaching Institution.

Desirable: For Professor: Minimum of four Research publications indexed in Index Medicus/ National journal and one in International Journal.
For Associate Professor: Minimum of four Research publications indexed in Index Medicus/ National journal.

Pay Scale:

Professor: 18400-22400/- + NPA, Associate Professor: 14300-18300/- + NPA & Assistant Professor: 11625-15200/- + NPA (Non Medical Faculty - No NPA) (Plus other allowances as admissible under Govt. of India Rules)

Age: (as on 30-11-2007) For Direct Recruitment not exceeding 50 years for the post of Professor, 45 years for the post of Associate Professor and Assistant Professor.

a) **Deputy Medical Superintendent:**

No. of Post-1(one), Scale of pay- Rs. 10,000-15,200/-, Age : Not exceeding 40 years (as on 30.11.2007)

Educational qualification & Experience

1. A medical qualification included in the first or third schedule or part-II of the third schedule to the Indian Medical Council Act of 1956 (person possessing qualifications included in the part-II of the third schedule should also fulfil the conditions specified in the sub section (3) of the section 13 of the Act.,
2. MD/MS degree recognised by MCI,
3. The candidate must be registered with the Central/State Medical Council,
4. Five years administrative experience in 500 bedded hospital or any health care organisation and
5. Preference will be given to the candidates having MHA or MD Hospital Administration.

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- b) **Professor cum Vice Principal** (No of post-1) (Pay Scale-12000-16500) plus other allowances as admissible under Govt. of India Rules.
Age: Not exceeding 45 years (as on 30.11.2007)
Essential Educational qualification & experience
 a) Master Degree in Nursing, b) 14 years experience after M.Sc (Nursing) in a College of Nursing and c) 3 years experience in administration.
Desirable: Independent published work of high standard/Doctorate Degree/M.Phil.
- c) **Lecturer:**
 No of post -3 (1 post reserved for OBC), Pay Scale - Rs.8000-13500, **Age: Not exceeding 35 years (as on 30.11.2007)**
Essential Educational qualification & experience
 a) Master Degree in Nursing and b) 3 years teaching experience after M.Sc (Nursing).

General Information

- 1 Faculty Members/Candidates working in Govt. /Semi Govt / Public Sector Undertaking/ Autonomous Institutions are requested to submit their Applications through proper-channel.
- 2 In case applicants willing to join the Institute on deputation he/she may also apply accordingly. The qualification & experience for the applicant willing to join the Institute on deputation will be: persons working in analogous post or post one level below shall be eligible for consideration provided they fulfil the requisite qualification & experience prescribed for direct recruit. The period of deputation shall ordinarily not exceed 3 (three) years at a time. The pay of the Faculty Members will be protected as per Govt. of India's Ministry of Finance (Department of Expenditure's) O M No.F 1(11)-E.III (B)/75 Dated 7-11-75 read with DOPT's O M No. 6/30/86-E (pay-II) dated 9-12-86. Upper age limit for candidate willing to come on deputation should not exceed 56 year as on 30.11.2007.
- 3 Applications of retired faculty members having requisite qualification & experience and who have not crossed 65 years of age may also be considered for appointment on contact basis and their pay & perks are negotiable with in Govt. Rules.
- 4 **Accommodations will be provided to the Faculty members appointed at the Institute.**
- 5 A C second-class train fare to and fro to the place of interview will be paid on production of tickets to the candidates who are called for interview.
- 6 Reservation for SC/ ST/OBC will be as per Govt. of India norms.
- 7 The upper age limit is relaxable upto 5 years for Government Servants, Scheduled Caste & Scheduled Tribe Candidates and 3 years for OBC candidates.
- 8 Canvassing of any kind will be a disqualification.
- 9 The effective date up-to which the requisite experience must be completed is **30th June 2008.**
- 10 The decision of the Institute as to eligibility or otherwise of a candidate will be final.
- 11 The applicants, who do not have requisite qualifications up to the last date for submission of applications, will not be considered.
- 12 Incomplete applications will not be considered.
- 13 Institute reserves the right to reject or accept any candidature without assigning any reason thereof.

Interested eligible candidates are requested to submit their application in the prescribed form along with attested copies of certificates and testimonials. Complete applications may be send to the **Director, North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences, Mawdiangdiang, Shillong-793018** SUPERSCRIBING Application for the post of "....."

Last date of receipt of application is 30.11.2007.

Director

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Annexure - II

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North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, Shillong, Mawdiangdiang-793012

ADVERTISEMENT NO. NEIGR-E. II/19/2004/Pl.V

Applications are invited on prescribed form by the Director, North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, from Indian Citizen for the following posts mentioned below.

Sl.No.	Speciality	Name of Post	No. of Posts	Essential Qualification & Experience:
1	Cardiology	Professor	1	i. A medical qualification included in the first or third schedule or part-II of the third schedule to the Indian Medical Council Act of 1956 (person possessing qualifications included in the part-II of the third schedule should also fulfil the conditions specified in the sub section (3) of the section 13 of the Act., ii. D M (Cardiology) recognised by the MCI. iii. 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of D. M.
		Assistant Professor*	1	i & ii same as Professor Cardiology, iii. At least 3 years teaching experience as Sr. Resident/ Tutor/ Registrar/ Demonstrator in the concerned speciality in recognised Medical College.
2	Gastroenterology	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. D.M (Gastroenterology)/D.M (Medical Gastroenterology)/M D (Medicine) or M.D (Paediatrics) with two years special training in Gastroenterology, iii. At least 4 years teaching experience as Associate Professor/Reader in a recognised Institution in the subject of speciality after obtaining the qualifying degree of D.M.
		Associate Professor	1	i & ii same as Professor Gastroenterology, iii. At least 2 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in recognised Medical College/Teaching institution.
		Assistant Professor	2	i & ii same as Professor Gastroenterology, iii. At least 3 years teaching experience as Sr. Resident/ Tutor /Demonstrator / Registrar in the concerned speciality in recognised Medical College.
3	CTVS	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M.Ch. (Cardio Thoracic Surgery Cardio Vascular Thoracic Surgery, Cardiac Surgery, Vascular Thoracic Surgery, Vascular Surgery) recognised by MCI. iii. At least 4 years teaching experience as Reader/ Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of M. Ch.
		Assistant Professor	1	i & ii same as Professor CTVS, iii. At least 3 years teaching experience as Sr.Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
4	Gastro Intestinal Surgery	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. M.Ch. (Gastro Intestinal Surgery) recognised by the MCI. iii. At least 4 years teaching experience as Associate Professor/Reader in a recognised Institution in the subject of speciality after obtaining the qualifying degree of M.Ch.
		Associate Professor	1	i same as Professor G.I. Surgery, ii. M.Ch. (Gastro Intestinal Surgery) or M.S.(Surgery) with 2 years special training in Surgical Gastroenterology, iii. At least 2 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in recognised Medical College/Teaching Institution.
5	Neuro Surgery	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. M.Ch.(Neuro Surgery) recognised by the Medical Council of India, iii. At least 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of M.Ch.
		Associate Professor	1	i & ii same as Professor Neuro Surgery. iii. At least 2 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in recognised Medical College/Teaching Institution.
		Assistant Professor	1	i & ii same as Professor Neuro Surgery, iii. At least 3 years teaching experience as Sr.Resident/ Tutor/ Demonstrator/ Registrar in the concerned speciality in recognised Teaching Institution.
6	Neurology	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. D M (Neurology) recognised by the MCI, iii. At least 4 years teaching

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Certified to be true copy
Mr. K. Kumar, Advocate

				experience as Reader/ Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of D. M.
		Associate Professor	1	i & ii same as Professor Neurology, iii. At least 2 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in recognised Medical College/Teaching Institution.
		Assistant Professor	1	i & ii same as Professor Neurology, iii. At least 3 years teaching experience as Senior Resident/ Tutor/ Demonstrator/ Registrar in the concerned speciality in recognised Medical College.
7	Nephrology	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. D M (Nephrology) recognised by the MCI, iii. At least 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of D. M.
		Associate Professor	1	i & ii same as Professor Nephrology, iii. At least 2 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in recognised Medical College/ Teaching institution.
		Assistant Professor	2	i & ii same as Professor Nephrology, iii. At least 3 years teaching experience as Registrar/Sr.Resident/ Tutor/Demonstrator in the concerned speciality in recognised Medical College.
8	Urology	Professor*	1	i same as Sl.No.1(i) for Professor Cardiology, ii. M.Ch. (Urology) recognised by MCI, iii. 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of M Ch.
		Assistant Professor	2	i & ii same as Professor Urology, iii. At least 3 years teaching experience as Senior Resident/ Tutor/ Demonstrator/ Registrar in the concerned speciality in recognised Medical College.
9	Clinical Pharmacology	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. D.M (Clinical Pharmacology) or MD (Pharmacology) with 2 years special training in Clinical Pharmacology recognised by MCI, iii. 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality after obtaining the qualifying degree of D.M/MD (Pharmacology) with 2 years special training in Clinical Pharmacology.
		Associate Professor	1	i & ii same as Professor Clinical Pharmacology, iii. As Assistant Professor/Lecturer in Clinical Pharmacology for 2 years in a recognised Medical College/Teaching Institution.
		Assistant Professor	2	i & ii same as Professor Clinical Pharmacology, iii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised teaching institution after first postgraduate qualification.
10	Microbiology	Associate Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MD (Microbiology/Bacteriology) or MBBS.with M.Sc.(Medical Bacteriology) with Ph.D. and M.Sc. with D.Sc., iii. As Assistant Professor/Lecturer in Microbiology for 5 years in a recognised Medical College.
11	Pathology	Associate Professor*	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. MD (Pathology)/Ph.D. (Pathology)/ D.Sc.Pathology recognised by MCI, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in recognised Medical College/Teaching Institution.
		Assistant Professor*	1	i & ii same as Associate Professor Pathology, iii. At least 3 years teaching experience as Senior Resident/ Tutor/ Demonstrator/ Registrar in the concerned speciality in recognised Medical College.
	Radiotherapy	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MD/MS (Radiotherapy) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor in the concerned speciality in a recognised Medical College.
		Associate Professor	1	i & ii same as Professor Radiotherapy, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	1	i & ii same as Professor Radiotherapy, iii. At least 3 years teaching experience in the subject in a recognised Medical College as Senior Resident/Registrar/Demonstrator/Tutor.

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13	Orthopaedics & Trauma	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. M S (Orthopaedics) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor in the concerned speciality in a recognised Medical College.
		Associate Professor*	1	i & ii same as Professor Orthopaedics & Trauma, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College.
14	Obstetrics & Gynaecology	Associate Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MD/M S (Obstetrics & Gynaecology) recognised by MCI, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College.
15	General Surgery	Associate Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MS (Surgery/General Surgery) recognised by MCI, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in a recognised Medical College.
16	General Medicine	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MD (Medicine/ General Medicine) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor in the concerned Speciality in a recognised Medical College.
		Assistant Professor	1	i & ii same as Professor General Medicine, iii. At least 3 years teaching experience in the subject in a recognised Medical College as Senior Resident/Registrar/Demonstrator/Tutor.
17	Forensic Medicine	Associate Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MD (Forensic Medicine) recognised by MCI, iii. As Assistant Professor/Lecturer in Forensic Medicine for 5 years in a recognised Medical College.
18	Paediatrics	Professor	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M D (Paediatrics) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/ Reader in the concerned Speciality in a recognised Medical College
		Assistant Professor	2	i & ii same as Professor Paediatrics, iii. At least 3 years teaching experience in the subject in a recognised Medical College as Senior Resident/Registrar/Demonstrator/Tutor.
19	Anaesthesiology	Assistant Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MD/MS Anaesthesiology recognised by MCI, iii. At least 3 years teaching experience in the subject in a recognised Medical College as Senior Resident/Registrar/Demonstrator/Tutor.
20	Anatomy	Associate Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MS (Anatomy)/MD(Anatomy) or MBBS with M.Sc.(Anatomy) recognised by the MCI, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	2	i. MS (Anatomy)/MD (Anatomy) or MBBS with M.Sc (Anatomy) or M.Sc.(Medical Anatomy) with Ph.D.(Medical Anatomy) or M.Sc.(Medical Anatomy) with D.Sc.(Medical Anatomy) recognised by MCI, ii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
21	Biochemistry	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MD (Biochemistry)/MBBS with M.Sc.(Medical Biochemistry) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/ Reader in the concerned Speciality in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor Biochemistry, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
22	Pharmacology	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. M.D (Pharmacology)/MBBS with Ph.D.(Medical Pharmacology) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/Reader in the concerned Speciality in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor Pharmacology, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
23	Community Medicine	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MD (Social & Preventive Medicine)/MD (Community Medicine) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/Reader in the concerned Speciality in a recognised Medical College/Teaching Institution.

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		Associate Professor	1	i & ii same as Professor Community Medicine, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	1	i. & ii same as Professor Community Medicine, iii. At least 3 years teaching experience as Senior Resident/Tutor/Demonstrator/Registrar in the concerned speciality in recognised Medical College/Teaching Institution.
24	ENT	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. M.S (ENT) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/Reader in the concerned Speciality in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor ENT, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
25	Ophthalmology	Professor	1	i. same as Sl.No.1(i) for Professor Cardiology, ii. MD (Ophthalmology)/MS (Ophthalmology) recognised by MCI, iii. At least 4 years teaching experience as Associate Professor/Reader in the concerned speciality in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor Ophthalmology, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
26	Physiology	Associate Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii.MD(Physiology)/MBBS with M.Sc(Physiology) recognised by the MCI, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
27	Medical Oncology	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. DM(Medical Oncology)/MD (Medicine) or MD (Radio-therapy) or MD(Paediatrics) recognised by MCI with 2 years special training in Medical Oncology, iii. At least 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality.
		Associate Professor	1	i & 2 same as Professor Medical Oncology, iii. At least 2 years teaching experience as Assistant Professor/Lecturer in a recognised Institution in the subject of speciality.
		Assistant Professor	2	i & ii same as Professor Medical Oncology, iii. At least 3 years teaching experience as Senior Resident/Registrar/Demonstrator/Tutor in the concerned speciality in recognised Medical College/Teaching Institution.
28	Clinical Haematology	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. DM(Clinical Haematology)/MD(Medicine) or MD (Paediatrics) or MD (Pathology) with 2 years special training in Clinical Haematology recognised by MCI, iii. At least 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality.
		Associate Professor	1	i & ii same as Professor Clinical Haematology, iii. At least 2 years teaching experience as Assistant Professor/Lecturer in a recognised Institution in the subject of speciality.
		Assistant Professor	2	i & ii same as Professor Clinical Haematology, iii. At least 3 years teaching experience as Senior Resident/Registrar/Demonstrator/Tutor in the concerned speciality in recognised Medical College/Teaching Institution.
29	Endocrinology & Metabolic Diseases	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. DM(Endocrinology)/MD(Medicine) or MD (Paediatrics) with 2 years special training in Endocrinology recognised by MCI, iii. At least 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality.
		Associate Professor	1	i & ii same as Professor Endocrinology & Metabolic Diseases, iii. At least 2 years teaching experience as Assistant Professor/Lecturer in a recognised Institution in the subject of speciality.
		Assistant Professor	2	i & ii same as Professor Endocrinology & Metabolic Diseases, iii. At least 3 years teaching experience as Senior Resident/Registrar/Demonstrator/Tutor in the concerned speciality in recognised Medical College/Teaching Institution.
30	Surgical Oncology	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. M.Ch.(Surgical Oncology)/MS(Surgery) or MS(ENT) or MS(Orthopaedics)or MD(Obst. & Gynae.) with 2 years special training in Surgical Oncology recognised by MCI, iii. At least 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality.

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		Associate Professor	1	i & ii same as Professor Surgical Oncology, iii. At least 2 years teaching experience as Assistant Professor/Lecturer in a recognised Institution in the subject of speciality.
		Assistant Professor	2	i & ii same as Professor Surgical Oncology, iii. At least 3 years teaching experience as Senior Resident/Registrar/Demonstrator/Tutor in the concerned speciality in recognised Medical College/Teaching Institution.
31	Dermatology & STD	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MD (Dermatology & Venereology)/MD (Dermatology Venereology & Leprosy)/MD(Dermatology)/MD(Dermatology including Venereology)/MD (Dermatology including Venereology/Leprosy)/MD(Medicine) with D.V.D. or D.D. recognised by MCI, iii. At least 4 years teaching experience as Reader/Associate Professor in a recognised Institution in the subject of speciality.
		Associate Professor	1	i & ii same as Professor Dermatology & STD, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	2	i & ii same as Professor Dermatology & STD, iii. At least 3 years teaching experience as Senior Resident/Registrar/Demonstrator/Tutor in the concerned speciality in recognised Medical College/Teaching Institution.
32	Tropical & Infectious Diseases	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MD (Tropical Medicine)/MD(General Medicine) or MD (Microbiology) with 2 years experience in Clinical Medicine recognised by MCI, iii. At least 4 years teaching experience as Reader/Associate Professor in the concerned speciality in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor Tropical & Infectious Diseases, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	2	i & ii same as Professor Tropical & Infectious Diseases, iii. At least 3 years teaching experience as Senior Resident/Registrar/Demonstrator/Tutor in the concerned speciality in recognised Medical College/Teaching Institution.
33	Rheumatology	Professor	1	i same as Sl.No.1(i) for Professor Cardiology, ii. MD (Rheumatology)/MD (Medicine) with 2 years experience in Rheumatology/Immunology recognised by MCI, iii. At least 4 years teaching experience as Reader/Associate Professor in the concerned speciality in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor Rheumatology, iii. At least 5 years teaching experience as Assistant Professor/Lecturer in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	2	i & ii same as Professor Rheumatology, iii. At least 3 years teaching experience as Senior Resident/Registrar/Demonstrator/Tutor in the concerned speciality in recognised Medical College/Teaching Institution.
34	Hospital Administration	Professor cum Medical Superintendent	1	i. Same as Sl.No.1(i) for Professor Cardiology, ii. M.D.(Hospital Administration)/ M.D.(Community Health Administration)/M.D. (Health Administration) recognised by MCI, iii. At least 4 years teaching experience as Reader/Associate Professor in Hospital Administration/Community Medicine/SPM/Health Administration in a recognised Medical College/Teaching Institution.
		Associate Professor	1	i & ii same as Professor Hospital Administration, iii. At least 5 years teaching experience as Reader/Associate Professor in the concerned speciality in a recognised Medical College/Teaching Institution.
		Assistant Professor	2	i & ii same as Professor Hospital Administration, iii. At least 3 years teaching experience as Senior Resident/Registrar/Demonstrator/Tutor in the concerned speciality in a recognised Medical College/Teaching Institution.

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Candidates who had applied earlier against advertisement No.NEIGR-15/2004 dated 17.10.2007 need not apply again.
Desirable: For Professor: Minimum of four Research publications indexed in Index Medicus/ National journal and one in International Journal.
For Associate Professor: Minimum of four Research publications indexed in Index Medicus/ National journal.

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Pay Scale:

Professor: 18400-22400/- + NPA, Associate Professor: 14300-18300/- + NPA & Assistant Professor: 11625-15200/- + NPA (Non Medical Faculty - No NPA) (Plus other allowances as admissible under Govt. of India Rules)

Age: (as on 31-10-2008) For Direct Recruitment not exceeding 50 years for the post of Professor, 45 years for the post of Associate Professor and Assistant Professor.

a) Deputy Medical Superintendent:

No. of Post-1(one), Scale of pay- Rs. 10,000-15,200/-, Age : Not exceeding 40 years (as on 31.10.2008)

Educational qualification & Experience

1. A medical qualification included in the first or third schedule or part-II of the third schedule to the Indian Medical Council Act of 1956 (person possessing qualifications included in the part-II of the third schedule should also fulfil the conditions specified in the sub section (3) of the section 13 of the Act.,
2. MD/MS degree recognised by MCI,
3. The candidate must be registered with the Central/State Medical Council,
4. Five years administrative experience in 500 bedded hospital or any health care organisation and
5. Preference will be given to the candidates having MHA or MD Hospital Administration.

b) Professor cum Vice Principal (No of post-1) (Pay Scale-12000-16500) plus other allowances as admissible under Govt. of India Rules.

Age: Not exceeding 45 years (as on 31.10.2008)

Essential Educational qualification & experience

a) Master Degree in Nursing, b) 14 years experience after M.Sc (Nursing) in a College of Nursing and c) 3 years experience in administration.

Desirable: Independent published work of high standard/Doctorate Degree/M.Phil.

c) Lecturer:

No of post -4 (3 UR & 1 OBC), Pay Scale - Rs.8000-13500, Age: Not exceeding 35 years (as on 31.10.2008)

Essential Educational qualification & experience

a) Master Degree in Nursing and b) 3 years teaching experience after M.Sc (Nursing).

General Information

- 1 Faculty Members/Candidates working in Govt. /Semi Govt / Public Sector Undertaking/ Autonomous Institutions are requested to submit their Applications through proper channel.
- 2 In case applicants willing to join the Institute on deputation he/she may also apply accordingly. The qualification & experience for the applicant willing to join the Institute on deputation will be: persons working in analogous post or post one level below shall be eligible for consideration provided they fulfil the requisite qualification & experience prescribed for direct recruit. The period of deputation shall ordinarily not exceed 3 (three) years at a time. The pay of the Faculty Members will be protected as per Govt. of India's Ministry of Finance (Department of Expenditure's) O M.No.F 1(11)-E.III (B)/75 Dated 7-11-75 read with DOPT's O M No. 6/30/86-E (pay-II) dated 9-12-86. Upper age limit for candidate willing to come on deputation should not exceed 56 year as on 30.11.2007.
- 3 Applications of retired faculty members having requisite qualification & experience and who have not crossed 65 years of age may also be considered for appointment on contact basis and their pay & perks are negotiable with in Govt. Rules.
- 4 **Accommodations will be provided to the Faculty members appointed at the Institute.**
- 5 AC-II tier train fare to and fro to the place of interview will be paid on production of tickets to the candidates who are called for interview.
- 6 Reservation for SC/ ST/OBC will be as per Govt. of India norms.

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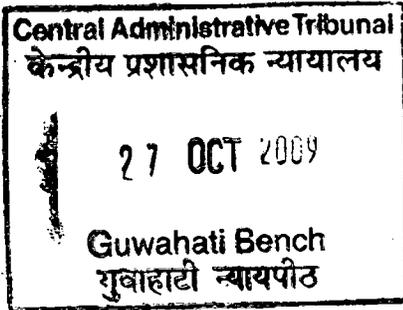
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- 7 The upper age limit is relaxable upto 5 years for Government Servants, Scheduled Caste & Scheduled Tribe Candidates and 3 years for OBC candidates.
- 8 Canvassing of any kind will be a disqualification.
- 9 The effective date up-to which the requisite experience must be completed is 30th June 2009.
- 10 The decision of the Institute as to eligibility or otherwise of a candidate will be final.
- 11 The applicants, who do not have requisite qualifications up to the last date for submission of applications, will not be considered.
- 12 Incomplete applications will not be considered.
- 13 The number of posts may be increased/decreased depending upon the requirement at the time of interview.
- 14 Institute reserves the right to reject or accept any candidature without assigning any reason thereof.

Interested eligible candidates are requested to submit their application in the prescribed form along with attested copies of certificates and testimonials. Complete applications may be send to the Director, North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences, Mawdiangdiang, Shillong-793018 SUPERSCRIBING Application for the post of "....."

Last date of receipt of application is 31.10.2008.

Director, NEIGRIHMS



File in Court on 17/11/09
Court Officer

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Filed by
The Applicants;
Through;
U. K. N. N. N.
Advocate, 17-11-09

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH :: GUWAHATI

Original Application No. 184 / 2009

Dr. Dilip Kumar Parida & Anr.

Versus

The Union of India & Ors.

AND

IN THE MATTER OF

A Rejoinder by and on behalf of the applicants to the written statement filed by the Respondents No.1, 2 and 3 in the above noted Original Application.

1. That with regard to the statements made in the paragraph 1 and 2 of the Written Statement, under reply, your deponent begs to offer no comments against the same.

2. That with regard to the statements made in the paragraph 3 of the Written Statement, under reply, your deponent denies the same and reiterates the statements made in the Original Application. The deponent states that a prima facie case having been made out by the applicants the original application as filed by them is required to be allowed by granting to the applicants the reliefs as prayed for by them therein.

17/11/2009

Dr. Dilip Kumar Parida
at 10:40 AM
17/11/2009
D. K. N. N. N.
Advocate

Parida

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3. That with regard to the statements made in the paragraph 4 of the Written Statement, under reply, your deponent states that the Recruitment Rules of 2003 are not in force after the same were repealed by the Governing Council of the Institution in its meeting held on 22.09.08. The present recruitment as resorted to by the Director of the Institute i.e. the Respondent No. 3 is clearly without any jurisdiction and has been so resorted to only accommodate the interest of person close to the powers that be.

4. That with regard to the statements made in paragraphs 5 and 8 of the, Written Statement, under reply, your deponent denies the same and states that the justification sought to be advanced towards justifying the impugned advertisement that the same was necessitated so as to achieve the norms prescribed by Medical Counsel of India for conduct of MBBS Course is clearly unsubstantiated and contrary to the actual position as existing in the matter. The authorities of the institute are not proceeding with any recruitment against the majority of subjects prescribed for first year and second year MBBS Courses. Further, given the position as regards the recruitment existing as on date, there would be no significant addition to the strength of the teaching staff of the institute. The institute is yet to approach the Medical Council of India for recognition of its MBBS Course. The authorities of the institute had started the MBBS Course with open eyes, without making provisions for the required number of faculty positions. It was only in the Governing Council meeting held on 22.09.08 that it was decided for forwarding to the Ministry concerned a detailed proposal for creation of additional posts for starting MBBS course was arrived at. The Governing council had also made provision to tide over the situation arising due to non availability of faculty members by providing for recruitment of retired faculty members. As such, the projection made in this connection by the respondents is clearly without any substance and requires to be ignored.

4 (a). It is stated that against the subjects of Anatomy, Biochemistry, Physiology, Forensic & Toxicology, Pharmacology, Microbiology and Pathology prescribed for the 1st and 2nd year MBBS Course, no recruitment is under way for the subjects of Anatomy, Biochemistry, Forensic & Toxicology,

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Pharmacology. It is not that no candidates applied for recruitment against the said post but due to the absolute Recruitment Rules, the applications were rejected leaving no persons in the field. It is further stated that amongst the Departments for which recruitment was held more particularly Pathology and Gynecology, only one candidate was in the fray for the posts involved in the departments. The said position clearly reflects that the earlier Recruitment Rules of 2003, has not had the required effect and the same is not mandated for an institute of repute like the NEIGRHIMS. It is precisely for this reason that the Governing Body of the Institute had decided to scrap the same.

4(b). It is stated that the intention of the authorities of the institute as sought to be projected in the paragraph under reply and the action actually taken in the matter do not correspond to each other. The impugned advertisement is the 7th one issued for the same purpose since the inception of the Institute and only 47 faculty members could be recruited till date, out of which 8 have already resigned, leaving 38 working faculty members. The present recruitment process would at best add 3 more faculty members to the Institute. Thereby no significant increase in the faculty strength would be forthcoming. As such the contention of the Institute authorities that the recruitment underway is to meet the norms of the Medical Council Of India is perverse.

- ✓ 5. That with regards to the statements made in the paragraphs 6, 14, 15, 24, 25, 28, 29 and 36 of the written statement, under reply, your deponent denies the same and states that the communication dated 05.11.08 and 27.11.08 annexed as Annexure Nos. I & II have been misinterpreted by the Director. The communication dated 27.11.08 clearly supports the contentions raised by the Opposite Party/ Applicants in the Original Application. The Director of the institute who has filed the written statement, under reply was present during the deliberations of the Governing Council in its meeting held on 22.09.08 and had moved the proposal for amendment of the then recruitment Rules of the Institute. It was the Director who had in the said meeting explained the inconsistencies existing in the recruitment rules of 2003 and had justified in the meeting the amendment sought for. As such, the contention that it was only on

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receipt of the communication dated 22.09.08 that it was learnt that the Governing Council had decided for amendment of the said Recruitment Rules at par with the Recruitment Rules of AIIMS is clearly unsustainable. Such statements bring to the forefront the vested interest involved in the matter on the part of the persons at the helm of affairs of the Institute.

5(a) It is denied that any fresh proposal has been called for amendment of the Recruitment Rules in so far as direct recruitment is concerned. The proposal as called for is in respect of the Assessment Promotion Scheme which again is in tune with the decision of the Governing Council in its meeting held on 22.09.08 in this connection.

5(b) It is stated that the Governing Council of the institute being the supreme authority no further approval is required for the decisions arrived at by it until expressly so provided for. The decision of the Governing Council with regard to the amendment of the rules was without any condition attached thereto and as such the amended rules came into operation w.e.f. 22.09.08 itself. The contention that the Recruitment Rules were yet to be approved by the competent authority is clearly a misleading statement inasmuch as no such approval from any other authority is contemplated under the Memorandum of Association, Rules holding the field.

6. That with regard to the statements made in paragraphs 7 and 30 of the written statement, under reply, your deponent denies the same and states that the advertisement in question has been published without any authority from the Governing Council. The fact that the recruitment process under taken by the impugned advertisement was without any authority is clearly reflected from the minutes of the Governing Council meeting held on 22.09.08 wherein against Agenda Item No. 11 it was resolved that to overcome the hardship faced by the Institute in recruiting senior faculty members e.g. Professor and Associate Professor in various departments, on account of poor response to the advertisement to the faculty posts, by recruiting retired faculty members on contract basis.

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It is stated that as reliably learnt by the applicants as many as three screenings were resorted to by the authorities of the Institute and persons not found to be eligible in the first screening were thereafter incorporated in the recruitment process and such persons being the only candidate against the post they have applied for, are now on the verge of being appointed. Further, even persons not eligible as per the Recruitment Rules of 2003 have also been allowed to participate in the selection process and they have also been selected. As such there is no consistency in the matter of recruitment on the part of the authorities of the Institute and the whole process has been resorted to ensure that persons close to the powers that be are recruited. The interest of the Institute has been given a clear go-bye.

7. That with regard to the statements made in paragraphs 9, 11 and 12 of the written statement, under reply, your deponent denies the same and reiterates and reaffirms the statements made in the corresponding paragraphs of the Original application.

8. That with regard to the statements made in paragraph 10 of the Written Statement, under reply, your deponent denies that same and states that the contention of the respondents no.1,2 and 3 that this Hon'ble Tribunal has no jurisdiction to entertain the Original Application on the ground that the actions impugned happens to be the administrative decision of the respondents is clearly contemptuous and unwarranted.

9. That with regard to the statements made in paragraph 13 of the Written Statement, under reply, your deponent denies that same and states that the grievances raised by the applicants are one and the same and the reliefs as sought for the are also same. The grounds urged in support of their claims in the Original application are also the same and as such there is no impediment in allowing the applicants to join together in a single Original application. This Hon'ble Tribunal has already allowed the applicants to join together in the Original Application in terms of the provisions of Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987.

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10. That with regard to the statements made in paragraphs 16 and 17 of the Written Statement, under reply, your deponent denies the same and reiterates and reaffirms the statements made in the corresponding paragraphs of the Original Application.

11. That with regard to the statements made in paragraph 18 of the Written Statement, under reply, your deponent denies the same and reiterates and reaffirms the statements made in the corresponding paragraph of the Original Application. It is stated that the advertisement impugned in the Original Application is the seventh such advertisement issued by the authorities of the Institute. The recruitment process have till date only resulted in recruitment of 46 faculty members, out of whom 8 have already resigned from the services of the Institute. The present recruitment process has also met the same fate inasmuch as in the event the process is allowed to be taken to its conclusion, only 3 more faculty members would be added to the faculty strength. As such the contention of the respondents that there has been a good response to the impugned advertisement is perverse. The posts against which recruitments have been completed had only one candidate each in the fray. As such their selection is a foregone conclusion. It is stated that the posts in subjects forming the curriculum of the 1st and 2nd year MBBS courses are still vacant and no steps have been taken for filling up of the said posts. The emphasis is on posts that are not presently not called for in the conduct of the MBBS course.

12. That with regard to the statements made in paragraphs 19, 20, 21, 22, 23 and 26 of the Written Statement, under reply, your deponent reiterates and reaffirms the statements made in the corresponding paragraph of the Original Application.

13. That with regard to the statements made in paragraph 27 of the Written Statement, under reply, your deponent denies the same and reiterates and reaffirms the statements made in the corresponding paragraph of the Original Application. It is stated that the Institute since the time of its inception was conceived to be an Institute of excellence.

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14. That with regard to the statements made in paragraphs 31, 32 and 35 of the Written Statement, under reply, your deponent denies that same and states that the authorities of the Institute having not acted in the matter as per the requirements of the Institute and the actions of the said authorities having adversely affected the service interests of the applicants they had preferred the above noted Original application. The statements made in the original Application and in the foregoing paragraphs of this Rejoinder would clearly reflect that the contentions as raised by the authorities of the Institute as regards the recruitment process initiated by issuance of the impugned advertisement are all unsustainable and it is writ large on the face of the actions undertaken by the authorities, that the impugned advertisement came to be issued basing on considerations extraneous to the purpose. The impugned advertisement accordingly cannot stand the scrutiny of law. It is stated that the applicants are praying for a consideration of their cases in terms of the Rules brought into operation in the Institute by its Governing Body w.e.f 22.09.08 and to restrain the authorities from trying to conduct recruitments based on obsolete Recruitment Rules which have already been scarpred.

15. That with regard to the statements made in paragraphs 33, 34 and 37 of the Written Statement, under reply, your deponent denies the same and reiterates and reaffirms the statements made in the corresponding paragraphs of the Original Application.

16. That with regard to the statements made in paragraph 39 of the written statement, under reply, your deponent denies the same and states that the whole recruitment having been initiated without authority, the same is not sustainable. The contentions raised in the paragraph under reply in support of the advertisement are not sustainable.

17. That in view of the facts and circumstances narrated in the Written Statement and in the forgoing paragraphs of this Rejoinder, it is well established that the applicants have made out a prima facie case requiring the interference in the matter by this Hon'ble Tribunal. The pleas as raised by the

respondent in written statement, under reply, in support of advertisement are all unsustainable and requires to be rejected.

18. That in view of the position as emerging in the matter it is prayed that this Hon'ble Tribunal would be pleased to allow the Original Application by granting to the applicants the reliefs prayed for by them therein.

.....Verification/-

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--VERIFICATION--

I, Dr. Mihir Kumar Goswami, aged about 47 years, son of Dr. Braja Mohan Goswami, resident of Quarter No. B-1C, NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong – 793018, Meghalaya, do hereby solemnly affirm and verify that I am the applicant No. 2 in Original Application No. 184/2009 and I have been duly authorised to swear this verification on behalf of the applicant no. 1 therein and as such I am competent to swear this affidavit conversant with the facts and circumstances of the case, the statements made in paragraph 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 18 are true to my knowledge and the rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign this verification on this the 15th day of November, 2009, at Guwahati.

Mihir K. Goswami

DEPONENT

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File in Court on 17/11/09
Court Officer.

Filed by: Shri. Rakesh Singh Advocate
Ad. by Shri K.S. Brijraj
Senior Advocate, Shillong

**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH::: GUWAHATI**

(AMENDED)

Original Application No. 184 of 2009

IN THE MATTER OF:-

1. Dr. Dilip Kr. Parida,
Resident of Quarter No. B-8C
NEIGRIHMS, NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.
2. Dr. Mihir Kr. Goswami,
Resident of Quarter No. B-1C
NEIGRIHMS, NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.

..... Applicants

-Versus-

1. The Union of India, represented
by the Secretary, Ministry of Health
Dept. of Family Welfare, North East
Division, Nirman Bhawan,
New Delhi- 110108.
2. The Governing Council,
NEIGRIHMS, represented by its
Chairman, NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.

3. The Director, NEIGRIHMS,
NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.
4. Dr. Yokarin Khonglah,
R/o NEIGHRIHMS Campus,
Mawdiangdiang, Shillong.
5. Dr. Subrat Panda,
S/o Shri Makar Chandra Panda
Assistant Professor (O&G)
Resident of Quarter No. B-9C,
NEIGRIHMS, NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.
6. Dr. (Mrs) Jaya Mishra,
D/o Prof. R.R. Mishra,
Quarter No. B-9A, NEIGRIHMS,
NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.

..... Respondents

-AND-

IN THE MATTER OF:-

Show cause filed by the
Respondent No. 5 and 6, Dr. Subrat
Panda and Dr (Mrs) Jaya Mishra.

The above named applicants Most Respectfully Sheweth:-

1. That the Respondents are the citizens of India by birth and residents of the above mentioned address in the State of Meghalaya and as such they are entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the laws framed there-under.

2. That the Respondents state that they have raised a common grievance arising out of the same cause of action in the instant original application filed by the above-named Applicants and the remedy / reliefs sought for on their part are the same and similar. As such the crave leave of this Hon'ble Tribunal to join hands together to file this show cause.

3. That save and except those statements which are specifically admitted in this show cause, all other statements shall be deemed to have been denied by the answering respondent no. 5 and 6 and the answering respondent also don't admit anything which is not borne on/ or contrary to the records.

4. That the contentions and submission made by the applicants in instant original Application No. 184 of 2009 are not sustainable and not maintainable in facts and law. The submission, allegation and averments raised or made in the said application are based on misrepresentation of facts

5. That the then Director of the North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences (hereinafter referred to as NEIGRIHMS) an autonomous institution established by the Government of India after its inception /establishment (1987) had issued/ given an advertisement bearing No. NEIGR-15/2004 dated 17.10.2007 inviting applications for selection and appointment of candidates for the posts of Professor, Associate Professor and Assistant Professor in 23 departments.

6. That the Director of NEIGRIHMS re-advertised the Advertisement No. NEIGR-E. II/19/2004/Pt. V dated 20.09.2008 in the Telegraph Calcutta inviting applications for selection and appointment of candidates for the posts of Professor (26), Associate Professor (28) and Asst. Professor, (37) in different departments. And in the said advertisement it was also clearly mentioned that candidates who had applied earlier against Advertisement No. NEIGR-15/2004 dated 17.10.2007 need not apply again in this 5 departments viz., Cardiology, Pathology, Obstetric and Gynaecology, Urology & Orthopedic and the last date of receipt of application was 31st October 2008. It was also mentioned that the effective date upto which the recruitment experience must be completed is 30th June 2009.

7. That the Respondents beg to state that the Respondent No. 5 applied for the post of Associate Professor in Obstetric and Gynaecology department whereas the Respondent No. 6 applied for the post of Assistant Professor in Pathology department in the year 2007 after the first Advertisement No. NEIGR-15/2004 dated 17.10.2007 and hence they did not need to apply again in the Advertisement No. NEIGR-E.II/19/2004/ Pt. V dated the 20.9.2008 invited by the Director NEIGRIHMS. Thereafter call letters dated 25th Aug. 2009 each was duly received by both the Respondents to appear for personal interview before the Standing Selection Committee of NEIGRIHMS at 9.30 AM on 8th Sept. 2009 in the Chanakaya Hall, Samrat Hotel, Chanakyapuri, New Delhi which was issued by Shri (D.A.J. Sawkmie) the Deputy Director (Admn.)

8. The Respondent No. 5 and 6 who are candidates for Obstetrics and Gynaecology, and Pathology respectively although appeared their personal interview on 8th Sept. 2009 the results are yet to be declared.

9. That the Respondent No. 5 and 6 has preferred an application bearing No. 113 of 2009 for impleading both the respondents as necessary party and the Original Application No. 184/2009 and this Hon'ble Tribunal was pleased to implead the respondents as respondent No. 5 and 6 in Original Application No. 184/2009 and another application No. 114 of 2009 for vacating the ad-interim Order dated 10.9.2009 passed by this Hon'ble Court which was moved the way of a common application and is pending for disposal.

10. That in reply made to the statement made in paragraph No. 1 it is admitted that the Respondent No. 1 to 3 invited application from desired candidate for various posts of faculty viz. Professor (26) posts, Associate Professor (28) posts and Assistant Professor (37) posts in different departments of NEIGHRIMS but the advertisement was not meant only for selection and appointment of candidates for the post of Professor in the Department of Medicine and Radiotherapy. As such the ad-interim Order dated 10.9.2009 obtained by the applicants staying all the recruitment process in all the departments has no legal basis and it was done so by misrepresentation of facts before the Hon'ble Tribunal.

11. That in reply made to the statement made in paragraph No. 2 the answering Respondents states that it is purely an administrative decision and this Hon'ble Tribunal has no jurisdiction to decide and / or exercise the power of review to the decision made by the NEIGRIHMS. It will also be seen from the norms / information appended in the para no. 9, 10, 11, 13 and 14 of the advertisement dated 20th Sept. 2008 enclosed as ANNEXURE- 8 by the applicants in the Original Application No. 184/2009. As such the Original Application is devoid of merit and deserved to be dismissed outrightly.

12. That in reply made to the statement made in paragraph No. 3, the respondents state that the original application of the applicants is still premature in view of the facts afore stated above and also there is no cause of action for filing such application before this Hon'ble Tribunal.

13. That in reply made to the statement made in paragraph No. 4.1, the answering respondents has no comments being the submission of the applicants.

14. That in reply made to the statement made in paragraph No. 4.2, the respondents state that it is the discretionary power of this Hon'ble Tribunal to consider or not.

15. That in reply made to the statement made in paragraph No. 4.3, the Respondents state that it is an admitted fact that in the 10th Meeting of the Governing Council of NEIGRIHMS held on 22nd Sept. 2008 the Governing Council in its agenda No. 6 & 8 has approved the amendment of the Recruitment Rules of faculty posts in NEIGRIHMS at par the Recruitment Rules of faculty posts of AIIMS, New Delhi, and PGIMER, Chandigarh, but the fact remains that the amendment has not been implemented so far by the Central Government (Ministry of Health and Family Welfare - North East Division) through proper and legal Notification and as such the old recruitment Rule or the erstwhile Recruitment as alleged by the Respondents / Applicants is the only existing Recruitment Rule on record and there is no other existing RECRUITMENT RULE which was legally followed by the authority of the NEIGRIHMS in selecting the candidates for personal interview in various posts in different department of NEIGRIHMS.

The applicants are trying to mislead this Hon'ble Tribunal by stating the amended Recruitment Rule has come into existence on 22.9.2008 with an ulterior motive, arbitrarily misleading this Hon'ble Court without any basis whatsoever the averment at paragraph 4.3 is not at all admitted and that the annexure enclosed therein is false, incorrect and misleading as the documents enclosed is belongs to AIIMS and not the new Recruitment Rule of NEIGRIHMS as falsely claimed by the Applicants.

16. That in reply made to the statement made in paragraph No. 4.4, the respondents are denied and in view of the preceding paragraphs and the applicants are put to strict proof to show that the new Recruitment Rule has been implemented by the competent authority. That your respondents also submit that there is no dispute to their eligibility and / or qualification criteria in the posts they applied which is prescribed under the existing Recruitment Rules for the faculty members of the institute which was legally followed by the Institute. Whereas the allegation made by the Applicants in their Original Application No. 184/ 2009 that the Governing Council in its meeting held on 22.09.2008 had abandoned the existing RECRUITMENT RULES and adopted a new set of Rules in tune with that of AIIMS, PGIMER etc. is quite misleading and not correct but it was just to malign and stop the recruitment of the competent applicants amongst other applicants for the reason best known to them.

17. That in reply made to the statement made in paragraph No. 4.5, the respondents have no comments to make whatsoever since being the submission of the applicants.

18. That in reply made to the statement made in paragraph No. 4.6, the answering Respondents state that if both the applicants were found eligible for the post of Professor in the department of Medicine and Radiotherapy they should have approached the appropriate authorities of NEIGRIHMS for rectification /verification of the same. Instead of doing so the original application No. 184 of 2009 filed before this Hon'ble Tribunal and obtaining an ad-interim Order by misrepresentation of facts thereby staying the recruitment process of all the departments is apparently null and void in the eye of laws.

19. That in reply made to the statement made in paragraph No. 4.7, the answering Respondents has no comments to make since it is the concern of the NEIGRIHMS authority but it is submitted that the recruitment process is as per the existing Recruitment Rules of 2003 and not the Recruitment Rules of 2000 as alleged by the applicants.

20. That in reply made to the statement made in paragraph No. 4.8, the answering Respondents states that the basic different enumerated by the applicants in a comparative chart clearly indicates that both the applicants have not completed the four years teaching experience as associate professor and hence their application being rejected. As such there is no cause of action and for want of cause of action the original application No. 184/2009 may be dismissed.

21. That in reply made to the statement made in paragraph No. 4.9, the answering Respondents has no knowledge in regards to the representation made by the Applicant No. 1 and others since the Respondent no. 5 and 6 were not the signatories but the facts remain that the said representation does not have any relevancy with the existing recruitment rule and as such they are put to strict proof thereof.

22. That in reply made to the statement made in paragraph No. 4.10, the answering Respondents denies that the said communication is relevant with the present recruitment process and this should not warrant the applicants for obtaining exparte-ad-interim order staying the recruitment process for other departments. On the contrary the applicants should have asked / filed the instant original application for the stay of their own departments like medicine and radiotherapy. As such on this lone ground the ad interim order for all the departments can be vacated except the departments of medicine and radiotherapy.

23. That in reply made to the statement made in paragraph No. 4.11, the answering Respondents submits that the said communication has no relevancy with the matter in the instant original application and the rest are best known to the applicants and the respondents NEIGRIHMS.

24. That in reply made to the statement made in paragraph No. 4.12, the answering Respondents submits that the applicants has admitted to the extent that the existing Recruitment Rules requires 5 years teaching experience as Assistant Professor to become eligible for holding the post of Associate Professor and the Assistant Professor who are appointed on the basis of their 3 years experience as Assistant Professor in private institute's on completion of 2 years of service as Assistant Professor in the NEIGRIHMS stakes claim for the post of Associate Professor. As such it is best known to the applicants how they have fulfill the requisite qualification as per the existing Recruitment Rules.

25. That in reply made to the statement made in paragraph No. 4.13, the answering Respondents states that it is admitted that in the meeting of Governing Council dated 22.9.2008 at agenda item No. 6 has approved to amend the old / existing recruitment rules but so far there is no notification for implementing the same by the competent authority.

26. That in reply made to the statement made in paragraph No. 4.14, the answering Respondents submits that before final orders on RECRUITMENT RULES have been notified by the Ministry of Health and Family Welfare (North East Division) Govt. of India, New Delhi, the Applicants can neither seek promotion under rules that have not yet been finalized nor can deprive the right of the applicants amongst others in various department to stop the recruitment process / result by obtaining ad-interim order merely on the allegation and misrepresentation of facts made before this Hon'ble Tribunal. Moreover, the Applicants themselves deserves to be blamed for the reason of their wrong presumption that the old recruitment rule has been abandoned by NEIGRIHMS and new RECRUITMENT RULES has become into force is without any legal basis.

It is also a settled provision of law that once a process of selection starts under the existing RECRUITMENT RULES the prescribed selection criteria cannot be changed and altered by the new amended RECRUITMENT RULES which has got no legality being not accepted and approved by the competent authorities cannot have retrospective effect from the statements they made in their Original Application No. 184/2009.

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27. That in reply made to the statement made in paragraph No. 4.15, the answering Respondents submits that there is no cause of interference by this Hon'ble Tribunal by entertaining the Original Application No. 184/2009 preferred by the Applicants which was purely misleading and by misrepresenting the facts obtained the ex-parte ad-interim Order dated 10.9.2009 from this Hon'ble Tribunal thereby unnecessary staying the Recruitment process of the applicants department amongst others which has caused miscarriage of justice and also antithesis of the principle of natural justice and also for the reason that it was purely an administrative decision which warrants no jurisdiction to this Hon'ble Tribunal to exercise such power.

Hence the statements made in paragraph 4.15 are denied and the applicants are put to strict proof thereof since the allegations of the applicants are baseless, motivated, deliberate and intentional.

28. That in reply made to the statement made in paragraph No. 4.16, the answering Respondents submits that the Applicants for the post of Associate Professor of Obstetric and Gynaecology and Assistant Professor of Pathology does not require any relaxation in respect of age, experience and qualification with reference to the Advertisements made either on 17th October 2007 and 20th Sept. 2008.

It is also stated that the Applicants are trying to mislead this Hon'ble Tribunal on misrepresentation of facts knowing fully well that the discretion of Screening Committee is administrative decision which was base on prevailing situation at that point of time.

29. That in reply made to the statement made in paragraph No. 4.17, the answering Respondents submits that the Applicants doesn't have the locus standi to file any application whatsoever against the Authority NEIGRIHMS, since the selection process for them is yet to commence and the Standing Selection Committee is yet to sit. On the contrary the Respondents herein are the candidates aggrieved and directly affected by the ad-interim Order dated 10/...../2009 passed by this Hon'ble Tribunal. That it is also a settled position of law that no person can be said to be aggrieved unless a person is denied a legal right by someone who has a legal duty to do something or to abstain from doing something. In the instant case it is clear that the

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Applicants are not aggrieved in any manner as they were not called at all for personal interview by the NEIGRIHMS authority.

For that moreover it can be seen from their letter of request to the Secretary, Department of Health and Family Welfare, Govt. of India, Nirman Bhawan, New Delhi & Member, Governing Council, NEIGRIHMS, Shillong dated 25th Feb. 2009 and Letters to the Director, NEIGRIHMS dated 17th Aug. 2009 and 28th Aug. 2009 which has been annexed by the Applicants as ANNEXURE- X, XI and XII in their Original Application No. 184/2009 was made after one year from the date of the Advertisement No. NEIGR - E. II / 19/2004/Pt. V dated 22nd Sept. 2008, that they did not approached the concerned authority in time and their underlying intention seems to be only to restrain the competent and eligible candidates in promoting to higher position in other departments.

30. That in reply made to the statement made in paragraphs No. 4.18, 4.19, 4.20, 4. 21, 4.22, 4.23, the answering Respondents submits that it is also a settled provision of law that once a process of selection starts under the existing RECRUITMENT RULES the prescribed selection criteria cannot be changed and altered by the new amended RECRUITMENT RULES which has got no legality being not accepted and approved by the competent authorities cannot have retrospective effect from the statements they made in their Original Application No. 184/2009. Hence the alleged allegations of the applicants are baseless, intentional, motivated and with an ulterior motive and as such are denied.

31. That in reply made to the statement made in paragraphs No. 4.24, the answering Respondents denied and submits that as stated in the preceding paragraph it is clearly established that the NEIGRHIMS has advertised as per the institute rules and the plea of discrimination alleged by the applicants has got no merit at all for which the application of the applicants deserved to be dismissed.

32. That in reply made to the statement made in paragraphs No. 4.25, 4. 26, the answering Respondents stated that the applicants did not approached before this Hon'ble Tribunal with a bonafide intention but the action of the applicants are malafide and misleading to this Hon'ble Tribunal to make the applicants and other departments to suffer a great irreparable

loss by staying the recruitment process of all the departments in NEIGRIHMS.

Hence if the ad-interim order passed by this Hon'ble Tribunal dated 10.9.2009 is not vacated your answering respondents would suffer and irreparable loss and injury.

33. That in reply made to the statement made in paragraphs No. 4.27, the answering Respondents denies and state that such a right claim for appointment by the applicants cannot be enforced as vested as well as fundamental rights it is also stated that the Respondents NEIGRIHMS and others had acted upon legally and cannot be construed that it is anthesis or principle of natural justice.

34. That in reply made to the statement made in paragraphs No. 4.28, the answering Respondents has no comments being submission of the applicants.

35. That in reply made to the statement made in paragraphs No. 4.29, are denied by the respondents and the applicants are put to strict proof thereof.

36. That in reply made to the statement made in paragraphs No. 4.30 are denied by the respondents and state that the applicants does not approached before this Hon'ble Tribunal with bonafide intention but with an intention to stop the recruitment proceedings of all other departments without any cause and as such the application of the applicants deserved to be dismissed.

37. That in reply made to the statement made in paragraphs No. 5.1 to 5.14, the answering Respondents state that the respondent NEIGRIHMS and others had rightly issued the advertisement No. NEIGR-E. II/19/2004/Pt. V dated 20.09.2008, the applicants should blame themselves for anticipating that the existing Recruitment Rule has been replaced by the new Recruitment Rule.

38. That in reply made to the statement made in paragraphs No. 6 are denied and states that there is no cause of action for filing the instant original application no. 184 /2009.

39. That in reply made to the statement made in paragraphs No. 7, the answering Respondents has no comments to make being submission of the applicants.

40. That in reply made to the statement made in paragraphs No. 8.1 to 8.4 it is stated that the applicants are not legally entitled for any relief as claimed.

It is further stated that it is settled provision of law that once the process of selection starts the prescribed selection criteria cannot be changed. Hence the application of the applicants deserved to be dismissed with cost.

41. That this Petition has been filed bonafide for the ends of justice.

In the premises, it is therefore prayed that your Honour would graciously be pleased to vacate the ad-interim Order dated 10.9.2009 passed by this Hon'ble Tribunal and be pleased to pass necessary Order on dismissing the original application of the applicants since the application of the Applicants is not maintainable in fact or in law or to pass any Order / Orders as your Lordship may deem fit and proper.

And for which act of kindness the humble Respondent No. 5 and 6 as in duty bound shall ever pray.

Dated: Shillong
The 17th Nov. 2009

HUMBLE RESPONDENTS

Suberat Rana
Jaya Mishra

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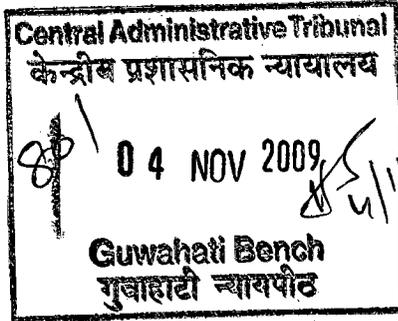
VERIFICATION

We, **Dr. Subrat Panda**, son of Shri Makar Chandra Panda, aged about 37 years, resident of Quarter No. B-9C NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong -793018, and **Dr (Mrs) Jaya Mishra**, daughter of Prof. R.R. Mishra, Quarter No. B-9A, NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong -793018, Meghalaya, do hereby solemnly affirm and verify in the instant show cause and the statements made in the paragraph No.

2, 5-11, 18 are matter of record and those made in paragraph No. 4 and are true to the best of my knowledge, belief and information, and the rest are my humble submission before this Court which I believe to be true.

And in verification whereof I signed on this ^{17th}..... day of November, 2009.

Subrat Panda
Jaya Mishra



**BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH::: GUWAHATI**

(AMENDED)

Original Application No. 184 of 2009

Filed by: Shilong 4/11/09
(Mr. Rakesh Singh) Advocate, Shillong
Led by Shri K. S. Kynjing
Senior Advocate, Shillong

IN THE MATTER OF:-

1. Dr. Dilip Kr. Parida,
Resident of Quarter No. B-8C
NEIGRIHMS, NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.
2. Dr. Mihir Kr. Goswami,
Resident of Quarter No. B-1C
NEIGRIHMS, NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.

..... Applicants

-Versus-

1. The Union of India, represented
by the Secretary, Ministry of Health
Dept. of Family Welfare, North East
Division, Nirman Bhawan,
New Delhi- 110108.
2. The Governing Council,
NEIGRIHMS, represented by its
Chairman, NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.

Received

Anni Bordz
(U.K.Nain)

2
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Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

04 NOV 2000

Guwahati Bench
गुवाहाटी न्यायपीठ

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3. The Director, NEIGRIHMS,
NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.
4. Dr. Yokarin Khonglah,
R/o NEIGHRIHMS Campus,
Mawdiangdiang, Shillong.
5. Dr. Subrat Panda,
S/o Shri Makar Chandra Panda
Assistant Professor (O&G)
Resident of Quarter No. B-9C,
NEIGRIHMS, NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.
6. Dr. (Mrs) Jaya Mishra,
D/o Prof. R.R. Mishra,
Quarter No. B-9A, NEIGRIHMS,
NEIGRIHMS Campus,
Mawdiangdiang, Shillong -793018,
Meghalaya.

..... Respondents

-AND-

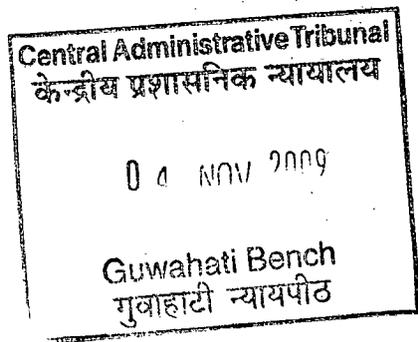
IN THE MATTER OF:-

Show cause filed by the
Respondent No. 5 and 6, Dr. Subrat
Panda and Dr (Mrs) Jaya Mishra.

The above named applicants Most Respectfully Sheweth:-

1. That the Respondents are the citizens of India by birth and residents of the above mentioned address in the State of Meghalaya and as such they are entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the laws framed there-under.

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2. That the Respondents state that they have *raised* a common grievance arising out of the same cause of action in the instant original application filed by the abovenamed applicants and the remedy/ reliefs sought for on their part are the same and similar. As such they *crave* leave of this Hon'ble Tribunal to join hands together to file this show cause.

3. That to save and except those statements which are specifically admitted in this show cause, all other statements shall be deemed to have been denied by the answering respondent no. 5 and 6 and the answering respondent also don't admit anything which is not borne on/ or contrary to the records.

4. That the contentions and submission made by the applicants in instant original Application No. 184 of 2009 are not sustainable and not maintainable in facts and law. The submission, allegation and averments raised or made in the said application are based on misrepresentation of facts

5. That the then Director of the North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences (hereinafter referred to as NEIGRIHMS) an autonomous institution established by the Government of India after its inception /establishment (1987) had issued/ given an advertisement bearing No. NEIGR-15/2004 dated 17.10.2007 inviting applications for selection and appointment of candidates for the posts of Professor, Associate Professor and Assistant Professor in 23 departments.

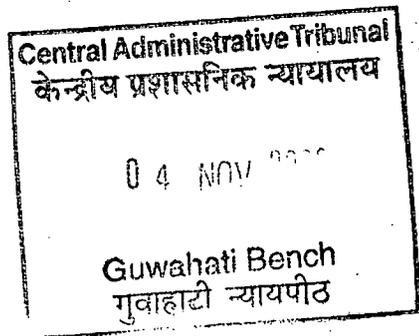
6. That the Director of NEIGRIHMS re-advertised the Advertisement No. NEIGR-E. II/19/2004/Pt. V dated 20.09.2008 in the Telegraph Calcutta inviting applications for selection and appointment of candidates for the posts of Professor (26), Associate Professor (28) and Asst. Professor, (37) in different departments. And in the said advertisement it was also clearly mentioned that candidates who had applied earlier against Advertisement No. NEIGR-15/2004 dated 17.10.2007 need not apply again in this 5 departments viz., Cardiology, Pathology, Obstetric and Gynaecology, Urology & Orthopedic and the last date of receipt of application was 31st October 2008. It was also mentioned that the effective date upto which the recruitment experience must be completed is 30th June 2009.

7. That the Respondents beg to state that the applicant No. 1 applied for the post of Associate Professor in Obstetric and Gynaecology department whereas the Respondent No. 6 applied for the post of Assistant Professor in Pathology department in the year 2007 after the first Advertisement No. NEIGR-15/2004 dated 17.10.2007 and hence they did not need to apply again in the Advertisement No. NEIGR-E.II/19/2004/ Pt. V dated the 20.9.2008 invited by the Director NEIGRIHMS. Thereafter call letters dated 25th Aug. 2009 each was duly received by both the Respondents to appear for personal interview before the Standing Selection Committee of NEIGRIHMS at 9.30 AM on 8th Sept. 2009 in the Chanakaya Hall, Samrat Hotel, Chanakyapuri, New Delhi which was issued by Shri (D.A.J. Sawkmie) the Deputy Director (Admn.)

8. The Respondent No. 5 and 6 who are candidates for Obstetrics and Gynaecology, and Pathology respectively although appeared their personal interview on 8th Sept. 2009 the results are yet to be declared.

9. That the respondent No. 5 and 6 has preferred an application bearing No. 113 of 2009 for impleading both the respondents as necessary party in the original application no. 184/2009 and this Hon'ble Tribunal was pleased to implead the respondents as respondent No. 5 and 6 in Original Application No. 184/2009 and another application No. 114 of 2009 for vacating the ad-interim Order dated 10.9.2009 passed by this Hon'ble Court which was moved the way of a common application and is pending for disposal.

10. That in reply made to the statement made in paragraph No. 1 it is admitted that the Respondent No. 1 to 3 invited application from desired candidate for various posts of faculty viz. Professor (26) posts, Associate Professor (28) posts and Assistant Professor (37) posts in different departments of NEIGHRIMS but the advertisement was not meant only for selection and appointment of candidates for the post of Professor in the Department of Medicine and Radiotherapy. As such the ad-interim Order dated 10.9.2009 obtained by the applicants staying all the recruitment process in all the departments has no legal basis and it was done so by misrepresentation of facts before the Hon'ble Tribunal.



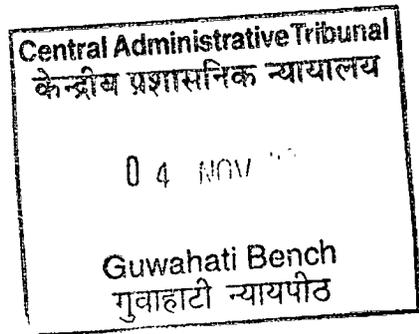
11. That in reply made to the statement made in paragraph No. 2 the answering respondents states that it is purely an administrative decision and this Hon'ble Tribunal has no jurisdiction to decide and / or exercise the power of review to the decision made by the NEIGRIHMS. It will also be seen from the norms / information appended in the para no. 9, 10, 11, 13 and 14 of the advertisement dated 20th Sept. 2008 enclosed as ANNEXURE- 8 by the applicants in the Original Application No. 184/2009. As such the Original Application is devoid of merit and deserved to be dismissed outrightly.

12. That in reply made to the statement made in paragraph No. 3, the respondents state that the original application of the applicants is still premature in view of the facts afore stated above and also there is no cause of action for filing such application before this Hon'ble Tribunal.

13. That in reply made to the statement made in paragraph No. 4.1, the answering respondents has no comments being the submission of the applicants.

14. That in reply made to the statement made in paragraph No. 4.2, the respondents state that it is the discretionary power of this Hon'ble Tribunal to consider or not.

15. That in reply made to the statement made in paragraph No. 4.3, the respondents state that it is an admitted fact that in the 10th Meeting of the Governing Council of NEIGRIHMS held on 22nd Sept. 2008 the Governing Council in its agenda No. 6 & 8 has approved the amendment of the Recruitment Rules of faculty posts in NEIGRIHMS at par the Recruitment Rules of faculty posts of AIIMS, New Delhi, and PGIMER, Chandigarh, but the fact remains that the amendment has not been implemented so far by the Central Government (Ministry of Health and Family Welfare - North East Division) through proper and legal Notification and as such the old recruitment Rule or the erstwhile Recruitment as alleged by the Respondents / Applicants is the only existing Recruitment Rule on record and there is no other existing RECRUITMENT RULE which was legally followed by the authority of the NEIGRIHMS in selecting the candidates for personal interview in various posts in different department of NEIGRIHMS.

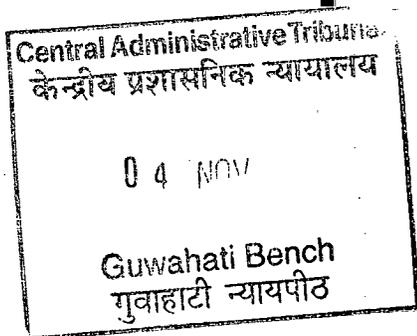


The applicants are trying to mislead this Hon'ble Tribunal by stating the amended Recruitment Rule has come into existence on 22.9.2008 with an ulterior motive, arbitrarily misleading this Hon'ble Court without any basis whatsoever the averment at paragraph 4.3 is not at all admitted and that the annexure enclosed therein is false, incorrect and misleading as the documents enclosed is belongs to AIIMS and not the new Recruitment Rule of NEIGRIHMS as falsely claimed by the Applicants.

16. That in reply made to the statement made in paragraph No. 4.4, are denied and in view of the preceding paragraphs and the applicants are put to strict proof to show that the new Recruitment Rule has been implemented by the competent authority. That your respondents also submit that there is no dispute to their eligibility and / or qualification criteria in the posts they applied which is prescribed under the existing Recruitment Rules for the faculty members of the institute which was legally followed by the Institute. Whereas the allegation made by the Respondent / Applicants in their Original Application No. 184/ 2009 that the Governing Council in its meeting held on 22.09.2008 had abandoned the existing RECRUITMENT RULES and adopted a new set of Rules in tune with that of AIIMS, PGIMER etc. is quite misleading and not correct but it was just to malign and stop the recruitment of the competent applicants amongst other applicants for the reason best known to them.

17. That in reply made to the statement made in paragraph No. 4.5, the respondents have no comments to make whatsoever since being the submission of the applicants.

18. That in reply made to the statement made in paragraph No. 4.6, the respondents state that if both the applicants were found eligible for the post of Professor in the department of Medicine and Radiotherapy they should have approached the appropriate authorities of NEIGRIHMS for rectification / verification of the same. Instead of doing so the original application No. 184 of 2009 filed before this Hon'ble Tribunal and obtaining an ad-interim Order by misrepresentation of facts thereby staying the recruitment process of all the departments is apparently null and void in the eye of laws.



19. That in reply made to the statement made in paragraph No. 4.7, the respondents has no comments to make since it is the concern of the NEIGRIHMS authority but it is submitted that the recruitment process is as per the existing Recruitment Rules of 2003 and not the Recruitment Rules of 2000 as alleged by the applicants.

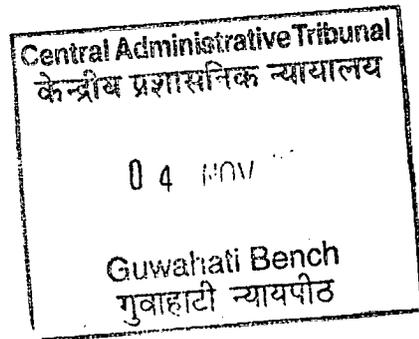
20. That in reply made to the statement made in paragraph No. 4.8, the respondents states that the basic different enumerated by the applicants in a comparative chart clearly indicates that both the applicants have not completed the four years teaching experience as associate professor and hence their applicant being rejected. As such there is no cause of action and for want of cause of action the original application No. 184/2009 may be dismissed.

21. That in reply made to the statement made in paragraph No. 4.9, the respondents has no knowledge in regards to the representation made by the applicant no. 1 and others since the respondent no. 5 and 6 were not the signatories but the facts remain that the said representation does not have any relevancy with the existing recruitment rule and as such they are put to strict proof thereof.

22. That in reply made to the statement made in paragraph No. 4.10, the respondents denies that the said communication is relevant with the present recruitment process and this should not warrant the applicants for obtaining exparte -ad-interim order staying the recruitment process for other departments. On the contrary the applicants should have asked / filed the instant original application for the stay of their own departments like medicine and radiotherapy. As such on this lone ground the ad interim order for all the departments can be vacated except the departments of medicine and radiotherapy.

23. That in reply made to the statement made in paragraph No. 4.11, the respondents submits that the said communication has no relevancy with the matter in the instant original application and the rest are best known to the applicants and the respondents NEIGRIHMS.

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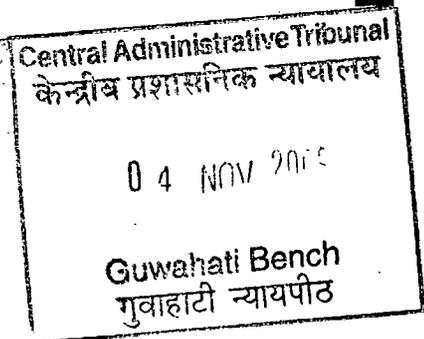
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24. That in reply made to the statement made in paragraph No. 4.12, the respondents submits that the applicants has admitted to the extent that the existing Recruitment Rules requires 5 years teaching experience as Assistant Professor to become eligible for holding the post of Associate Professor and the Assistant Professor who are appointed on the basis of their 3 years experience as Assistant Professor in private institute's on completion of 2 years of service as Assistant Professor in the NEIGRIHMS stakes claim for the post of Associate Professor. As such it is best known to the applicants how they have fulfill the requisite qualification as per the existing Recruitment Rules.

25. That in reply made to the statement made in paragraph No. 4.13, the respondents states that it is admitted that in the meeting of Gov. Council dated 22.9.2008 at agenda item No. 6 has approved to amend the old / existing recruitment rules but so far there is no notification for implementing the same by the competent authority.

26. That in reply made to the statement made in paragraph No. 4.14, the respondents submits that before final orders on RECRUITMENT RULES have been notified by the Ministry of Health and Family Welfare (North East Division) Govt. of India, New Delhi the Respondents / applicants can neither seek promotion under rules that have not yet been finalized nor can deprive the right of the applicants amongst others in various department to stop the recruitment process / result by obtaining ad-interim order merely on the allegation and misrepresentation of facts made before this Hon'ble Tribunal. Moreover, the applicants themselves deserves to be blamed for the reason of their wrong presumption that the old recruitment rule has been abandoned by NEIGRIHMS and new RECRUITMENT RULES has become into force is without any legal basis.

It is also a settled provision of law that once a process of selection starts under the existing RECRUITMENT RULES the prescribed selection criteria cannot be changed and altered by the new amended RECRUITMENT RULES which has got no legality being not accepted and approved by the competent authorities cannot have retrospective effect from the statements they made in their Original Application No. 184/2009.



27. That in reply made to the statement made in paragraph No. 4.15, the respondents submits that there is no cause of interference by this Hon'ble Tribunal by entertaining the original Application No. 184/2009 preferred by the applicants which was purely misleading and by misrepresenting the facts obtained the ex-parte ad-interim Order dated 10.9.2009 from this Hon'ble Tribunal thereby unnecessarily staying the Recruitment process of the applicants department amongst others which has caused miscarriage of justice and also antithesis of the principle of natural justice and also for the reason that it was purely an administrative decision which warrants no jurisdiction to this Hon'ble Tribunal to exercise such power.

Hence the statements made in paragraph 4.15 are denied and the applicants are put to strict proof thereof since the allegations of the applicants are baseless, motivated, deliberate and intentional.

28. That in reply made to the statement made in paragraph No. 4.16, the respondents submits that the applicants for the post of Associate Professor of Obstetric and Gynaecology and Assistant Professor of Pathology does not require any relaxation in respect of age, experience and qualification with reference to the Advertisements made either on 17th October 2007 and 20th Sept. 2008.

It is also stated that the applicants are trying to mislead this Hon'ble Tribunal on misrepresentation of facts knowing fully well that the discretion of Screening Committee is administrative decision which was base on prevailing situation at that point of time.

29. That in reply made to the statement made in paragraph No. 4.17, the respondents submits that the Respondents/ applicants doesn't have the locus standi to file any application whatsoever against the Authority NEIGRIHMS, since the selection process for them is yet to commence and the Standing Selection Committee is yet to sit. On the contrary the applicants herein are the candidates aggrieved and directly affected by the ad-interim Order dated 10.09.2009 passed by this Hon'ble Tribunal. That it is also a settled position of law that no person can be said to be aggrieved unless a person is denied a legal right by someone who has a legal duty to do something or to abstain from doing something. In the instant case it is clear

that the Respondents/ applicants are not aggrieved in any manner as they were not called at all for personal interview by the NEIGRIHMS authority.

For that moreover it can be seen from their letter of request to the Secretary, Department of Health and Family Welfare, Govt. of India, Nirman Bhawan, New Delhi & Member, Governing Council, NEIGRIHMS, Shillong dated 25th Feb. 2009 and Letters to the Director, NEIGRIHMS dated 17th Aug. 2009 and 28th Aug. 2009 which has been annexed by the Respondents/ Applicant as ANNEXURE- X, XI and XII in their Original Application No. 184/2009 was made after one year from the date of the Advertisement No. NEIGR - E. II / 19/2004/Pl. V dated 22nd Sept. 2008, that they did not approached the concerned authority in time and their underlying intention seems to be only to restrain the competent and eligible candidates in promoting to higher position in other departments.

30. That in reply made to the statement made in paragraphs No. 4.18, 4.19, 4.20, 4.21, 4.22, 4.23, the respondents submits that it is also a settled provision of law that once a process of selection starts under the existing RECRUITMENT RULES the prescribed selection criteria cannot be changed and altered by the new amended RECRUITMENT RULES which has got no legality being not accepted and approved by the competent authorities cannot have retrospective effect from the statements they made in their Original Application No. 184/2009. Hence the alleged allegations of the applicants are baseless, intentional, motivated and with an ulterior motive and as such are denied.

31. That in reply made to the statement made in paragraphs No. 4.24, the respondents are denied and submits that as stated in the preceding paragraph it is clearly established that the NEIGRIHMS has advertised as per the institute rules and the plea of discrimination alleged by the applicants has got no merit at all for which the application of the applicants deserved to be dismissed.

32. That in reply made to the statement made in paragraphs No. 4.25, 4.26, the respondents stated that the applicants did not approached before this Hon'ble Tribunal with a bonafide intention but the action of the applicants are malafide and misleading to this Hon'ble Tribunal to make the applicants and other departments to suffer a great irreparable loss by staying the recruitment process of all the departments in NEIGRIHMS.

04 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

Hence if the ad-interim order passed by this Hon'ble Tribunal dated 10.9.2009 is not vacated your answering respondents would suffer an irreparable loss and injury.

33. That in reply made to the statement made in paragraphs No. 4.27, the respondents denies and state that such a right claim for appointment by the applicants cannot be enforced as vested as well as fundamental rights it is also stated that the respondents NEIGRIHMS and others had acted upon legally and cannot be construed that it is anthesis or principle of natural justice.

34. That in reply made to the statement made in paragraphs No. 4.28, the respondents has no comments being submission of the applicants.

35. That in reply made to the statement made in paragraphs No. 4.29, are denied by the respondents and the applicants are put to strict proof thereof.

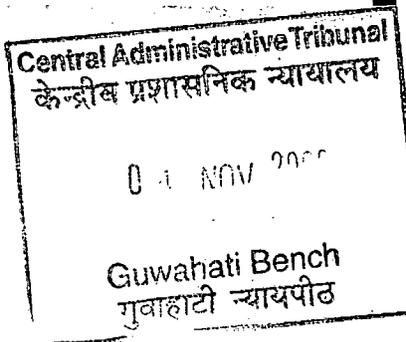
36. That in reply made to the statement made in paragraphs No. 4.30 are denied by the respondents and state that the applicants does not approached before this Hon'ble Tribunal with bonafide intention but with an intention to stop the recruitment proceedings of all other departments without any cause and as such the application of the applicants deserved to be dismissed.

37. That in reply made to the statement made in paragraphs No. 5.1 to 5.14 the respondents state that the respondent NEIGRIHMS and others has rightly issued the advertisement No. NEIGR-E. II/19/2004/Pt. V dated 20.09.2008, the applicants should blame themselves for anticipating that the existing Recruitment Rule has been replaced by the new Recruitment Rule.

38. That in reply made to the statement made in paragraphs No. 6 are denied and states that there is no cause of action for filing the instant original application no. 184 /2009.

39. That in reply made to the statement made in paragraphs No. 7 the respondents has no comments to make being submission of the applicants.

40. That in reply made to the statement made in paragraphs No. 8.1 to 8.4 it is stated that the applicants are not legally entitled for any relief as claimed.



It is further stated that it is settled provision of law that once the process of selection starts the prescribed selection criteria cannot be changed. Hence the application of the applicants deserved to be dismissed with cost.

41. That this Petition has been filed bonafide for the ends of justice.

In the premises, it is therefore prayed that your Honour would graciously be pleased to vacate the ad-interim Order dated 10.9.2009 passed by this Hon'ble Tribunal and be pleased to pass necessary Order on dismissing the original application of the applicants since the application of the Applicants is not maintainable in fact or in law or to pass any Order / Orders as your Lordship may deem fit and proper.

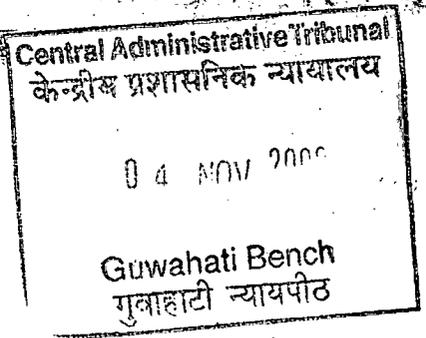
And for which act of kindness the humble Respondent No. 1 and 2 as in duty bound shall ever pray.

Dated: Shillong
The 1st Nov. 2009

HUMBLE RESPONDENTS

Subrat Landa

Jaya Mishra



VERIFICATION

We, Dr. Subrat Panda, son of Shri Makar Chandra Panda, aged about 37 years, resident of Quarter No. B-9C NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong -793018 and Dr (Mrs) Jaya Mishra, daughter of Prof. R.R. Mishra, Quarter No. B-9A, NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong -793018, Meghalaya, do hereby solemnly affirm and verify on my behalf and on behalf of the applicant No. 2 in this instant application and the statements made in the paragraph No. 5, 6, 7, 8, 9 to 12, 15, 27 are matter of record and those made in paragraph No. 1, 2, 3, 4, 12, 13, 14, 16, 17, 18, 19 to 22 to 28 to 41 and are true to the best of my knowledge, belief and information, and the rest are my humble submission before this Court which I believe to be true.

And in verification whereof I signed this the 1st day of November, 2009.

Subrat Panda
Jaya Mishra

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUAWAHATI BENCH :: GUWAHATI

Misc Application of 2009
In A. O No- 184 OF 2009

IN THE MATTER OF:

Union of India
& others Petitioner

Versus

Dr. Dilip Kumar Parida
& Others .. Opposite party.

To
Shri U. K. Nair
Advocate,
Central Administrative Tribunal
Guwahati Bench
Guwahati

Sir,

Please find enclosed herewith the copy of the Misc. application on bringing the subsequent events that filed by the petitioner for vacation / or modification of the order dated 10-9-2009 passed in OA No – 184/2009.

Kindly acknowledge the receipt of the same.

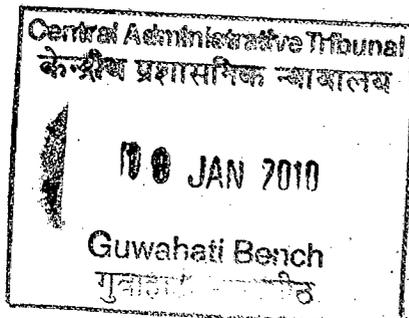
Thanking you.

Yours faithfully.

(R. Debnath) 18/01/2010

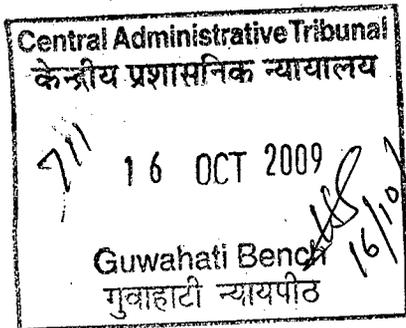
Received Copy.

G. Z. Ahmed
Advocate.
for
Mr. U. K. Nair
18/01/10.



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Filed by
Dr. M.E. Yebkhan
Directed M.E.IGR/HMS
Through Shri R. Debnath
C.A.C.
R. Debnath
16/10/09



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUAWAHATI BENCH :: GUAWAHATI

A . O No- 184 OF 2009

IN THE MATTER OF:

Dr. Dilip Kumar Parida
& others Petitioner

Versus

Union of India
& Others .. Respondents.

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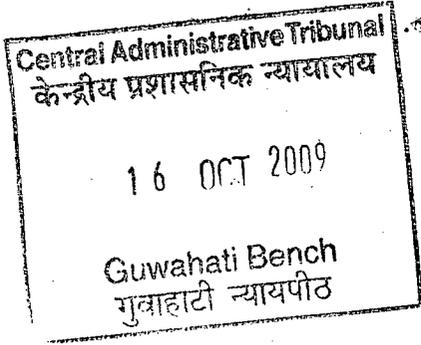
SI No	Particulars	ANNEXURE	PAGES
1	Copy of written statement		1 to 18
2.	Copy of the Memo No- U.12012/ 70/2008- NE, dated 5 th November 2008.	I	19
3.	Memo No, U 12012/9/2005- NE (Pt-II) dated 27-11-2008	II	20
4.	Memo of Appearance		21

Counsel for the Respondent ; Shri Rakhal Debnath.



61-
Filed by
Dr. M.E. Yeolekar
Through Counsel
16/10/09

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH :: GUWAHATI



A . O No- 184 OF 2009

IN THE MATTER OF:

Dr. Dilip Kumar Parida
& others Petitioner

Versus

Union of India
& Others .. Respondents.

-AND-

IN THE MATTER OF:

Written statement by an affidavit filed by the
Respondent No- 3, for self and for on behalf of
Respondents no- 1 & .2 hereinafter called the
answering Respondents.

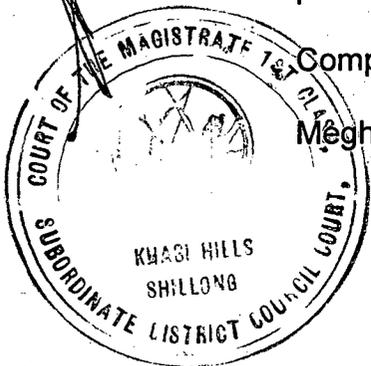
Most Respectfully Sheweth

I, Shri Dr. Murar E. Yeolekar son of Shri
Ekmath P. Yeolekar, aged about 59 years by

profession Director, NEIGRIHMS, Resident of NEIGRIHMS

Complex, Mawdiangdiang, Shillong, East Khasi Hills District,

Meghalaya do hereby solemnly affirm and state as follows: -



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Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
16 OCT 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

16.10.09
MM

1. That the copy of the petition has been served upon me and I have gone through the contents made therein and have fully understood the same, as such, I am competent and duly authorized to swear this affidavit on behalf of respondents in my official capacity.
2. That to save and except those statements which are specifically admitted in this show cause, all other statements shall be deemed to have been denied by the answering respondent and the answering respondent also does not admit anything which is not borne on / or contrary to the records.
3. That the contentions and submission made by the Petitioner in instant petition are not sustainable and not maintainable in facts and law. The submission, allegation and averments raised or made in the said petition are based on misrepresentation of facts.
4. That the petition is not maintainable in fact or law. NEIGRIHMS is a Central Educational Institution. NEIGRIHMS come into its existence from 12th January 1987. The Institute prepared self contained Recruitment Rules-2003, which came into its existence after notification No- F. No- U.12012/13/2003-ME-III, 9th day of October 2003 issued by the Ministry of Health & Family Welfare (Department of Health), New Delhi. The Government of India by Notification [The Central Educational Institutions (Reservation in admission) Act, 2006], which is Act of Parliament has declared that NEIGRIHMS, is an Institute of



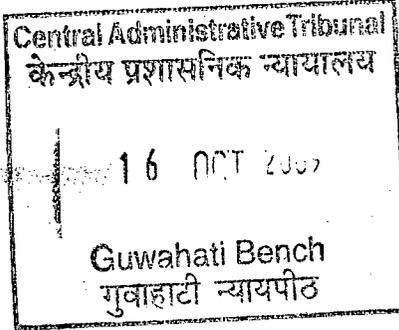
63- 3
Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
16 OCT 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

10.7.11
Jm

Excellence for imparting Education in the field of Medical Science. The Recruitment Rule-2003 in existence is squarely applicable, as the Recruitment of Faculty Posts is governed by the Recruitment Rules-2003.

5. That it is a fact that NEIGRIHMS commenced with MBBS Course from September in the year 2008, with the existing faculty members as well as staff of the Institute. The Institute ought to have maintained the minimum standards prescribed by Medical Council of India, as such; In view of the above, it was imperative to increase the strength of faculty members of the Institute, which warranted for advertisement on inviting applications in addition to publication on the Institute's website. Hence, advertisement No- NERIG- E-II/19/ P/ V, published in the National and Regional News papers. It is worthy to mention here that it was stipulated in the advertisement; the number of post may be increased / decreased as per sanction depending upon requirements at the time of interview. Therefore, the Institute has the right to decide for required faculty members based on requirement. NEIGRIHMS had processed the applications submitted by the desired candidates for the post of Professor, Associate Professor and Assistant Professor respectively. Your answering respondent states that for the post of Associate Professor, Radiotherapy and Professor in General Medicine, no official communication has made to any candidate. Further, it is stated that the Applicants did not possessed the requisite experience on

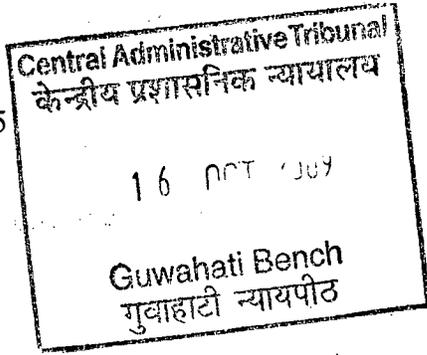




the date of submission of application as per norms of advertisement and thereby they have no vested right.

6. That your answering respondent states that the averment made in the application of the applicants are misrepresentation of facts. In fact, the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, has communicated vide office memo No- U.12012/ 70/2008- NE, dated 5th November 2008, and forwarded the minutes of the Governing Council Meeting dated 22-9-2008. On receipt of the aforesaid letter it was learnt that Governing Council decided for amendment of the said Recruitment Rules at par with the Recruitment Rules of AIIMS, New Delhi /PGIMER, Chandigarh. In response to the proposal on amendment of Recruit Rules-2003, modification of the proposed amendment in the tune of the recruitment Rules of faculty Posts at AIIMS, New Delhi was approved by the Governing Council; However, the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, has communicated vide memo No, U 12012/9/2005- NE (Pt-II) dated 27-11-2008 and advised the Institute for sending a fresh proposal for amendment of the Recruitment Rules. Accordingly, the details of the Recruitment Rules of the Institute of AIIMS, New Delhi and PGIMER of Chandigarh, had been sought on 11th December 2008 and thereafter followed with reminders, thereafter those Recruitments Rules were received on 23.4-2009 from AIIMS, New Delhi. The revised Recruitment Rules is being finalized and thereafter it will

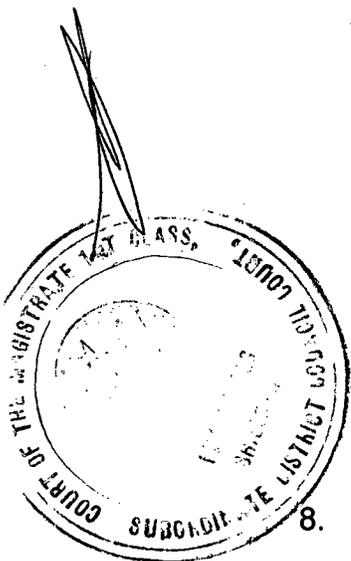




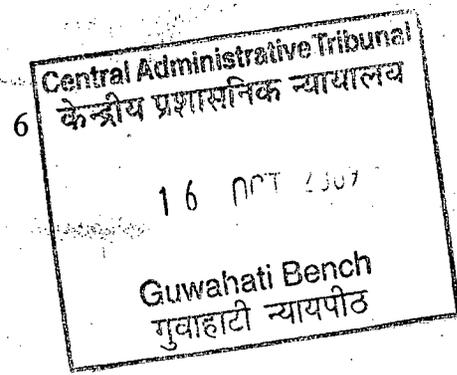
be sent to the Ministry of Health & Family Welfare, Govt of India who is the competent authority to give effect of Amended Recruitment Rules and notify the said Recruitment Rules for implementation. The applicants are trying to mislead this Tribunal on stating that Amended Recruitment Rule has come into its existence on 22-9-2008; though it was acquiescence by the petitioners that Recruitment Rules were yet to be approved by the Competent Authority, and the alleged allegations are with an ulterior motive, arbitrarily without any basis.

(Copy of the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, vide memo No-U.12012/ 70/2008- NE, dated 5th November 2008., memo. No, U 12012/9/2005- NE (Pt-II) dated 27-11-2008 are annexed as annexure – I , & II respectively)

7. That your answering respondent states that the screening committee on their minutes dated 12th February 2009 decided to consider the application of the applicant as per condition laid down in the advertisement. There is no cause for assailing the action of the screening committee, which is on the basis of the advertisement No- NERIG- E-II/19/ Pt-V. The grievances of the opposite party/ applicant are not amenable Original application, a right claimed for appointment, such right cannot be enforced as vested right. The Application filed by the applicants deserves to be dismissed.

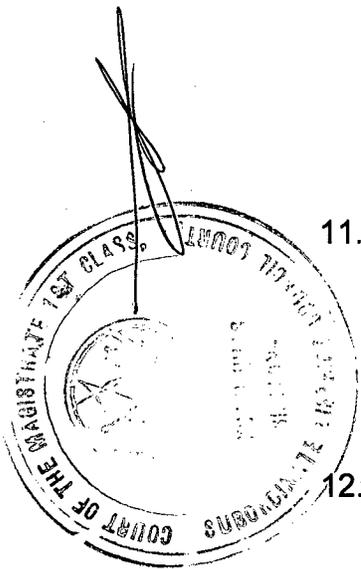


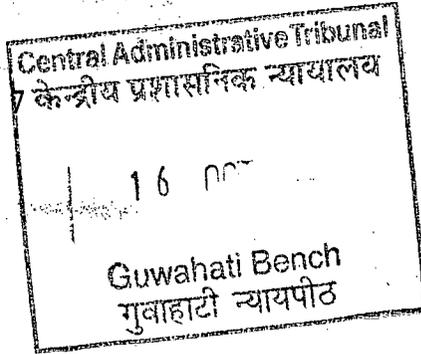
8. That primary responsibility for imparting Medical Education to the students lies with the Institute as per norms. If, there is a failure



in discharging this primary responsibility as per the norms of Medical Council of India, and as a result, there is withdrawal of recognition, all blames in this regard will be on the shoulder of the Institute management. Ultimately, students who are aspiring for medical degree, not only have to discontinue from prosecution of medical study, but also at the prime of lifes, their future will be jeopardized. There is no cause for interference by this Hon'ble Tribunal against the Selection process and interference in selection process would result in unhealthy practice, which will not only cause miscarriage of justice but also antithesis of the principle of natural justice. ✓

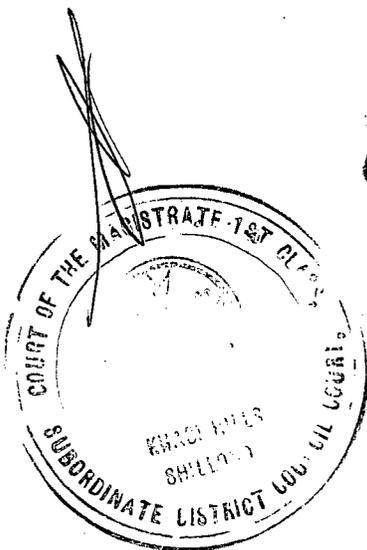
9. That as regard statement made in paragraph 1 answering respondent admitted to that extent that the answering respondent invited application from desired candidate for various posts of faculty and rest are denied.
10. That as regard statement made in paragraph 2 answering respondent states it is an administrative decision and the Hon'ble Tribunal has no jurisdiction to decide on exercising the power of reviewing the decision.
11. That as regard statement made in paragraph 3 it is submitted that there is no cause of action; hence, the application of the applicant is premature.
12. That as regard statement made in paragraph 4.1 answering respondent has no comments being submission of applicants.

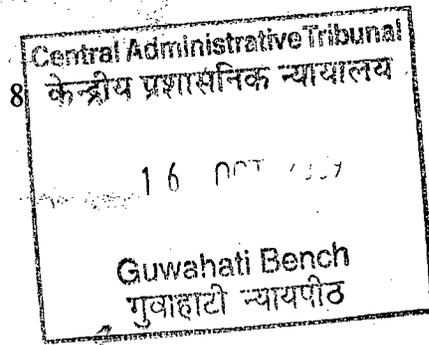




13. That as regard statement made in paragraph 4.2 are denied and states that that placement of the applicants are not similar situated and could not be considered the grievances are similar situated for which the application of the applicant deserves to be dismissed.

14. That as regard statement made in paragraph 4.3 are denied and states the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, has communicated its decision vide office memo No- U.12012/ 70/2008- NE, dated 5th November 2008, on forwarding the minutes of the Governing Council Meeting dated 22-9-2008 wherein it has decided for amendment of the said Recruitment Rules at par with the Recruitment Rules AIIMS, New Delhi and PGIMER, Chandigarh; in response to the proposal on amendment of Recruit Rules-2003, on modifying the proposed amendment in the tune of the recruitment Rules of faculty Posts at AIIMS, New Delhi. Thereafter, the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, has communicated vide memo No, U 12012/9/2005- NE (Pt-II) dated 27-11-2008 and advised for sending a fresh proposal for amendment of the Recruitment Rules. It is pertinent to mention here that the answering respondent are yet to receive the Recruitment Rules of PGIMER, Chandigarh, after that, the Draft Amended Recruitment Rules has to be approved by the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi and notified. The applicants are trying to





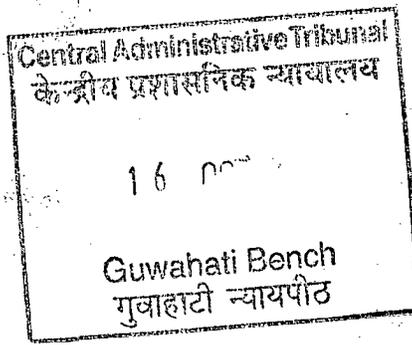
mislead this Tribunal on stating that Amended Recruitment Rule has come into its existence on 22-9-2008 with an ulterior motive, arbitrarily, without any basis.

15. That averments made in paragraph 4.4 are denied and states that as stated in preceding paragraph, it is clearly established that the proposed Amendment of said Recruitment Rules is under process. The applicants are trying to mislead this Tribunal on stating that Amended Recruitment Rule has come into its existence on 22-9-2008 with an ulterior motive, arbitrarily, without any basis.

16. That as regard averment made in paragraph 4.5 answering respondent has no comment, being submission of applicants.

17. That as regard statement made in paragraph 4.6 answering respondent states that the claim of the applicant No- 1 namely Dilip Kumar Parida is false. An Assistant Professor cannot be designated as Head of Department and he has not been designated so by any NEIGRIHMS order to this effect. In fact he is functioning as temporary faculty-in-charge of the department and reporting directly to the Dean. Further, the publication made by the applicant has no relevancy in the matter of selection for the respective post of faculty applied for on this ground; publication in major scientific journals are one of the desired requirements for academic progression and do not automatically qualify the applicant to be selected to the said post. In the case of second applicant Ph D is not an essential or desired qualification as per existing Recruitment Rules or in any Central





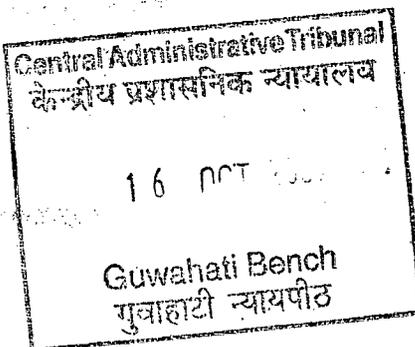
government Medical Institution namely AIIMS / PGIMER and is not relevant to the issue. It is to be mentioned here that the Govt of Assam had not given promotion to the applicant No- 2 for more than 13 years. The application of the applicants are devoid of merit and therefore deserves to be dismissed.

18. That as regards statement made in paragraph 4.7 are denied. It is pertinent to mention here that the applicants are trying to mislead this Tribunal on furnishing the wrong information. In fact, the Recruitment Rule has been sanctioned by the Ministry of Health and Family Welfare (North East Division) Government of India, New Delhi. As there was no academic programme earlier in the institute, hence; there was poor response to the earlier advertisement. Now on commencement of academic session there is good response to the posts of faculty. Faculty to the post of Anatomy, Physiology, Ophthalmology, ENT, Biochemistry Pharmacology, Preventive & Social Medicine have been recruited as per Recruitment Rules-2003 in the preceding interviews. ✓

19. That as regard statement made in paragraph 4.8 answering respondent states that there is no relevancies of comparisons, study of proposed amendment, which may be amend further before sanction of the Government. It is pertinent to mention here that Recruitment Rules -2000 is not in existence and concocted.



20. That as regard statement made in paragraph 4.9 are admitted to the extent of receipt of representation and and state that



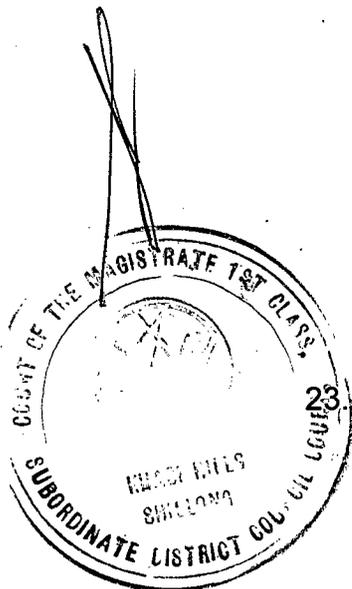
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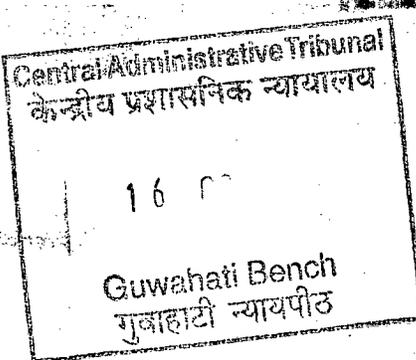
representation of the applicant No-1 is not warranted for consideration on dehorning the self contained Recruitment Rules.

21. That statements made in paragraph 4.10 are admitted to the extent that the then Director, NEIGRIHMS has requested to the concerned ministry for amendment of Recruitment Rules, vide letter dated 27-6-2007, for consideration of the Recruitment Rules in tune with AIIMS. It is worthy to mention here that due to lack of information of applicants staying outside the State of Meghalaya and North Eastern Region in general about this institute it is expected to have contributed significantly to the poor response and rest are denied.

22. That as regard statement made in paragraph 4.11 are admitted to the extent that the then Director, NEIGRIHMS has requested to the concerned ministry for amendment of Recruitment Rules, vide letter dated 27-6-2007, for consideration of the Recruitment Rules in tune with AIIMS. It is to be mention here that faculty to the post of Anatomy, Physiology, Ophthalmology, ENT, Biochemistry Pharmacology, Preventive & Social Medicine have been recruited as per Recruitment Rules-2003 in the preceding interview and has no relevancy in the matter instant application.

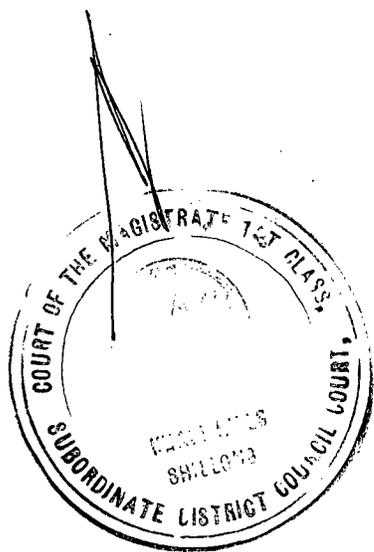
That as regard statement made in paragraph 4.12 answering respondent states that the then Director, NEIGRIHMS has requested to the concerned ministry for amendment of Recruitment Rules, in tune with AIIMS, and rest are denied.





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24. That as regard statement made in paragraph 4.13, it is stated that the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi vide Office memo No-U.12012/ 70/2008- NE, dated 5th November 2008, forwarded the minutes of the Governing Council Meeting dated 22-9-2008. On receipt of the aforesaid letter it was learnt that in the said meeting it was decided for amendment of the said Recruitment Rules at par with the Recruitment Rules AIIMS, New Delhi and PGIMER, Chandigarh on modifying the proposed amendment in tune with the recruitment Rules of faculty Posts at AIIMS, New Delhi. Thereafter, the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, has communicated vide memo No, U 12012/9/2005- NE (Pt-II) dated 27-11-2008 and advised for sending a fresh proposal for amendment of the Recruitment Rules. It is pertinent to mention here that in view of the Governing Council resolution approved by the Central Govt, the Institute sought for copy of the Recruitment Rules from AIIMS and PGIMER, Chandigarh. While the answering respondent have received the Recruitment Rules from AIIMS, the Recruitment Rules from PGIMER are yet to be received. The Draft Amended Recruitment Rule is under preparation, on evaluations on the basis of information received, moreover after completion of Draft Recruitment Rules, it is to be sent to the Ministry of Health & Family Welfare, Govt of India which is the competent authority to give effect of Amended Recruitment Rules and notify the said Recruitment Rules for implementation. The applicants are trying to mislead this Tribunal



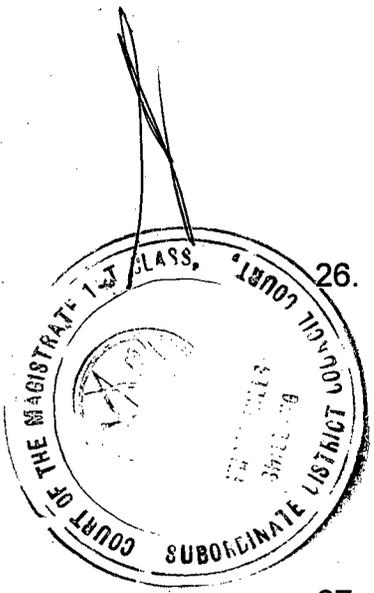
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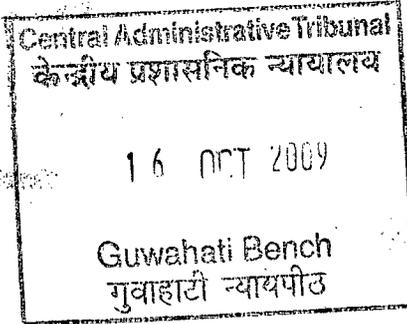
on stating that Amended Recruitment Rule has come into its existence on 22-9-2008 with an ulterior motive, arbitrarily without any basis.

25. That as regard statement made in paragraph 4.14 are denied. Admittedly, it is stated by the applicant that as per Recruitment Rules in vogue the applicants are not qualified. It is further states that Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi has communicated the minutes of the Governing Council meeting dated 22-9-2008 vide memo No- U.12012/ 70/2008- NE, dated 5th November 2008. Thereafter, again it has communicated vide memo No, U 12012/9/2005- NE (Pt-II) dated 27-11-2008 and advised for sending a fresh proposal for amendment of the Recruitment Rules. No final orders, on Recruitment Rules have been notified; by the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi till date. The applicant cannot seek promotion under Rules that have not yet been finalised. The alleged allegations of the applicants are after thought without any basis and are denied.

26. That as regard statement made in paragraph 4.15 are denied and the applicants are strict to proof thereof. The alleged allegations of the applicants are baseless, motivated, deliberate, and intentional and are denied.

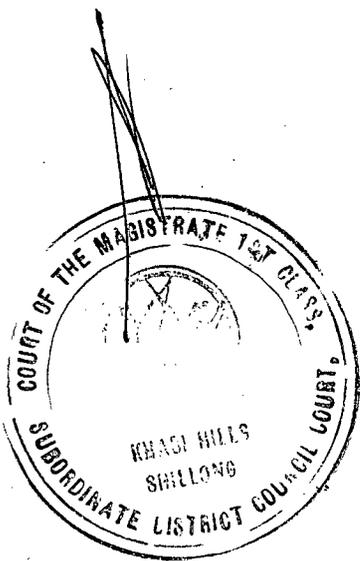
27. That as regard statement made in paragraph 4.16 it is states that the applicant are trying to mislead this Hon'ble Tribunal on misrepresentation of original fact. The discretion of Screening

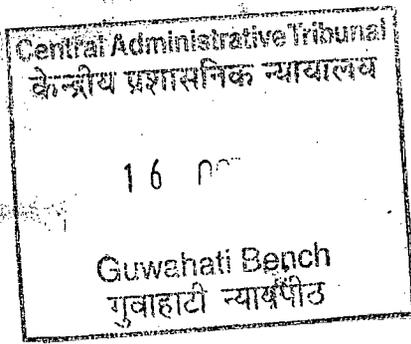




Committee is administrative decision, which was based on prevailing situation at that point of time, wherein the institute was in its infancy stage for functioning as Medical Institution. Moreover, it was not an institution of Excellence, as it stood as present.

28. That as regard statement made in paragraph 4.17 it is states that averment made in representation of the applicant alongwith others was misrepresentation of fact, hence; it was not warranted for consideration. It is worthy to mention here that admittedly the applicant vide their representation dated 25th February 2009, 17th August 2009 (Annexure 10 & 11 of the application) stated that the Governing Council in the meeting dated 22nd September 2008 has decided to change the Recruitment Rules and made request to take steps to get the new Recruitment Rules approved from the Ministry. Infact, Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, has communicated vide Memo No- U.12012/ 70/2008- NE, dated 5th November 2008, on forwarding the minutes of the Governing Council Meeting dated 22-9-2008. Thereafter, the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, has communicated vide memo No, U 12012/9/2005- NE (Pt-II) dated 27-11-2008 and advised for sending a fresh proposal for amendment of the Recruitment Rules. The proposed amendment is under process and the Ministry of Health & Family Welfare, Govt of India which is the competent authority to give effect of Amended Recruitment





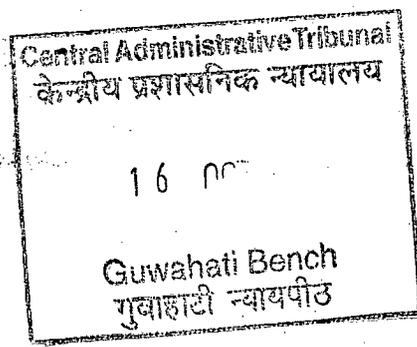
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D.P. X. J.
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Rules and notify the said Recruitment Rules for implementation, the application of the applicant deserves to be dismissed.

29. That statement made in paragraph 4.18, 4.19, 4.20 4.21, 4.22, 4.23 are denied and states that applicant are trying to mislead this Tribunal on misrepresentation of facts. In fact the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, has communicated vide memo No- U.12012/70/2008- NE, dated 5th November 2008 on forwarding the minutes of the Governing Council Meeting dated 22-9-2008. Thereafter, the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, has commuted vide memo No, U 12012/9/2005- NE (Pt-II) dated 27-11-2008 and advised for sending a fresh proposal for amendment of the Recruitment Rules. The Draft Amended Recruitment Rule will be modified as needed after receipt of the Recruitment Rules from PGIMER, Chandigarh, and thereafter, it is to be placed before the Ministry of Health & Family Welfare, Govt of India which is the competent authority to give effect of Amended Recruitment Rules and notify the said Recruitment Rules for implementation. The alleged allegation of the applicants are baseless, intentional, motivated and with an ulterior motive and are denied.



30. That statements made in paragraph 4.24 are denied and stated that as stated in the preceding paragraphs it is clearly establish that the Institute has advertised as per Institute Rules and the plea of discrimination is sans merit for which the application of the applicants deserves to be dismissed.



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D. X. J. J.

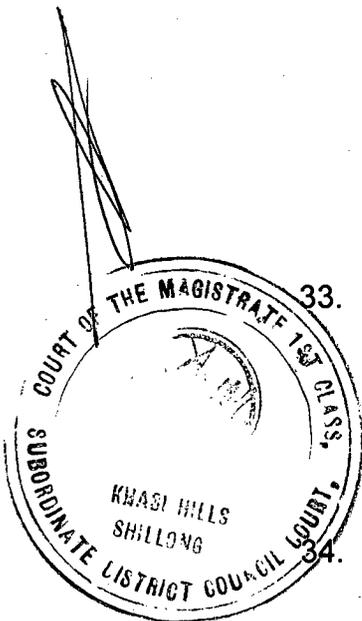
31. That as regard statement made in paragraph 4.25 & 4.26 it is stated that the applicants did not approach before this Tribunal in clean hand, and the actions of the applicants smack of malafide, with an intention to drag the answering respondent for unnecessary litigation without any cause. The balance of convenience is very much in favour of your answering respondent, if the application is considered, then, your answering respondent would suffer from irreparable loss and injury and the institution would be worst suffer for no fault; very purpose of Educational Institute would be defeated. The students of the Institution would be adversely affected, without any cause, and their career in the prime of life would be jeopardized.

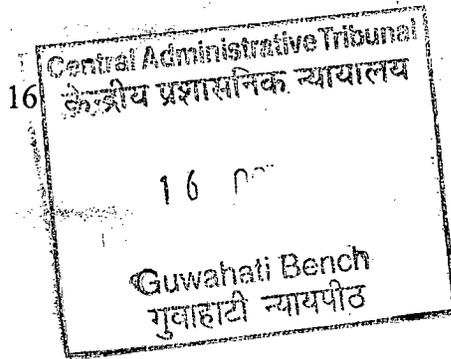
32. That averment made in paragraph 4.27 are denied and states that a right claimed for appointment, such right cannot be enforced as vested as well as fundamental right. The answering respondent acted upon legally and cannot be construed that it is antithesis of principle of natural justice and administrative fair play.

33. That as regard statement made in paragraph 4.28 answering respondent has no comments being submission of the applicants.

34. That as regard statement made in paragraph 4.29 are denied and applicants are put to strict to proof thereof.

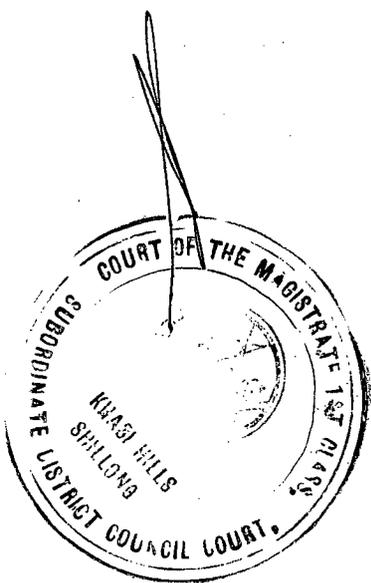
35. That as regard statement made in paragraph 4.30 are denied and state that the applicants did not approach before this





Tribunal in clean hand, smacks of malafide, with an intention to drag the answering respondent for unnecessary litigation, without any cause, and in the interest of justice the application of the applicant deserves to be dismissed.

36. That as regard statement made in paragraph 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7, 5.8, 5.9, 5.10, 5.11, 5.12, 5.13 & 5.14 it is stated that the answering respondent rightly has issued the advertisement. It is further states the applicant should blame themselves, as they themselves have proximate the Amendment considering themselves for their supposed legitimate expectations. In fact, the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, vide memo No- U.12012/70/2008- NE, dated 5th November 2008, has forwarded the minutes of the Governing Council Meeting dated 22-9-2008. Thereafter, the Ministry of Health and Family Welfare, (North East Division) Government of India, New Delhi, has commutated vide memo No, U 12012/9/2005- NE (Pt-II) dated 27-11-2008 and advised for sending a fresh proposal for amendment of the Recruitment Rules. Thereafter on receipt of the details Recruitment Rules from the respective Institutes, the Draft Amended Recruitment Rule will be prepared, and it is to be sent to the Ministry of Health & Family Welfare, Govt of India who is the competent authority to give effect of Amended Recruitment Rules and notify the said Recruitment Rules for implementation. The alleged allegations of the applicants are baseless, intentional, motivated and with an ulterior motive and are denied,

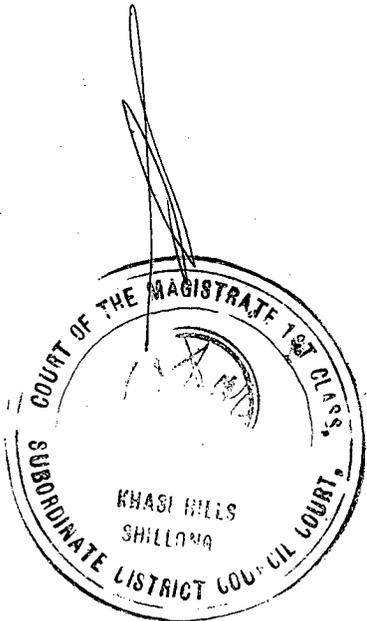


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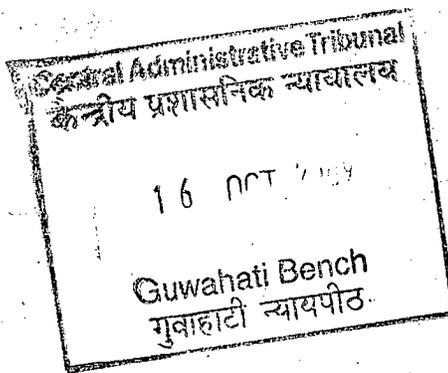
Guwahati Bench
गुवाहाटी न्यायपीठD. X. 200
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on this ground the application of the applicant is sans merit and deserves to be dismissed.

37. That as regards statement made in paragraph 6 are denied and states that there is no cause of action for filling of this instant application.
38. That as regard statement made in paragraph 7 answering respondent has no comments being submission of the applicants.
39. That as regard statement made in paragraph 8.1, 8.2, 8.3 & 8.4 it is stated that the applicants are not legally entitled for any relief as claimed. It is settled provision of law that once a process of selection starts the prescribed selection criteria cannot be changed. When the notification for examination giving appropriate number of vacancies, made, the number of posts mentioned in the Notification can be reduced and when number of vacancies has been reduced, number of candidate to be called for interview has also to be reduced accordingly. Moreover a candidate has no vested right to compel the Government to complete the selection process and it is open for the Government at a subsequent date not to fill up the Post. As stated in preceding paragraphs the applicants are not entitled for any relief and application of the applicants deserves to be dismissed with costs.
40. That as regards statement made in paragraph 10, 11, & 12 it is stated that noting has been stated in paragraph 10 and others



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being the submission of the applicant answering respondent has no comments.

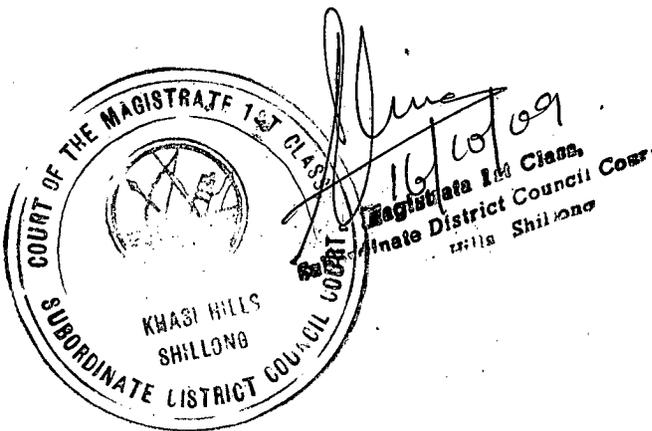
41. That the statement made in paragraph 8, 10, 13, 19, 21, 22, 31, 32, & 35, are true to the best of my knowledge and the statement made in paragraph 4, 5, 6, 7, 14, 15, 17, 18, 19, 20, 24, 25, 26, 27, 28, 29, 30, 36, & 39 are true being matter of records and the rest are my humble submission before this Tribunal. I sign this affidavit on this the 16th Day of October 2009, at Shillong.

In the premises above, it is therefore prayed that the Hon'ble Tribunal graciously be pleased to dismissing the application of the applicant as it is not maintainable in fact or law and also be pleased to pass necessary order on awarding the cost to the answering respondent.

Identified by
R. D. Small
16/10/09

Mul
 16.X.09
 Deponent.

[*Dr. Murali E. Yeolekar*]
 NORTH EASTERN DEVA GANDHI
 REGIONAL INSTITUTE OF HEALTH
 AND MEDICAL SCIENCES
 DISPENSARY BLOCK
 BARJANG DIANG
 SHILLONG - 783012
 MIZORAM



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79- Annexure - I

19
 Central Administrative Tribunal
 केन्द्रीय प्रशासनिक न्यायालय
 16 Nov 2008
 Guwahati Bench
 गुवाहाटी न्यायपीठ

No U.12012/70/2008-NE
 Government of India
 Ministry of Health and Family Welfare
 North East Division

Nirman Bhawan, New Delhi
 Dated 5th November, 2008

To

The Director,
 North Eastern Indira Gandhi Regional Institute of
 Health and Medical Science (NEIGRIHMS),
 Director Block, GPO Post Bag No. 92,
 Mawdiangdiang Village,
 East Khasi Hills, Shillong

Sub: Draft minutes of the 10th Governing Council Meeting held on 22nd
 September 2008 at New Delhi - regarding.

Sir,

I am directed to forward herewith a copy of the minutes of the 10th
 Governing Council Meeting which held on 22.09.2008 duly approved by the
 Hon'ble Union Minister of Health and Family Welfare for your kind information
 and further necessary action.

Yours faithfully,

(G.R. Khetarpal)
 Under Secretary to the Govt. of India
 Tele Phone -23061203

S.N. Lal
18/11/08
DDA
Est-11
 For circulation and
 R.R. to be notified - C start process
 follow up
 (1) Approval of Minutes for
 (2) A.C.P. as it involves financial
 (3) Payment of M.P.A To inform
 (4) Approval on contract To take up
 (10) will IED.

Stamp: NEIGRIHMS
 1094
 18/11/08
 Payment of M.P.A

NEIGRIHMS
 Establishment II

Receipt No. 1916

Date 19/11/2008

18/11/08

A-80-
Annexure - II

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~~195~~

203

U 12012/9/2005 NE(Pt-II)
Ministry of Health and Family Welfare
(North East Division)

Nirman Bhavan
New Delhi 110108

Date 27th Nov' 08

Central Administrative Tribunal
केंद्रीय प्रशासनिक न्यायालय
16 OCT
Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

To,

The Director
NEIGRIHMS
Shillong 793018
Meghalaya

Sub: Implementation of Assessment Promotion Scheme for Faculty Posts at
NEIGRIHMS, reg:-

Sir,

I am directed to refer to your letter No.NEIGR-1/43/2008/23 dated the 2nd Sep'08 on the subject noted above and to say that the Governing Council(GC) of NEIGRIHMS has already approved the amendment of the Recruitment Rules of Faculty posts to bring it at par with those of AIIMS, New Delhi, and PGIMER, Chandigarh, during the meeting held on 22nd Sep'08 at New Delhi.

The adoption of the Assessment Promotion Scheme has also been approved by the GC of NEIGRIHMS, in the aforementioned meeting, subject to the condition that the same would be examined by the Internal Finance Division(IFD), before implementation.

In view of the above, it is requested that a detailed proposal on the Assessment Promotion Scheme to be implemented by NEIGRIHMS for the Faculty posts may be forwarded for examination by the IFD. Additionally, a fresh proposal for the amendment of the RRs may be sent.

Yours faithfully

Carried to Section 10/11

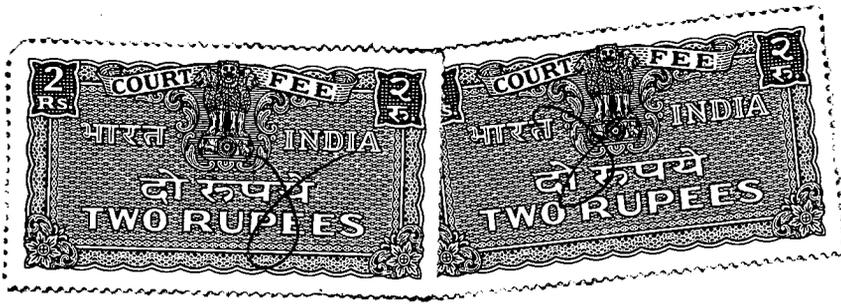
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Central Registry
Shillong
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E-II

R. D. Bhatia
16/11/08

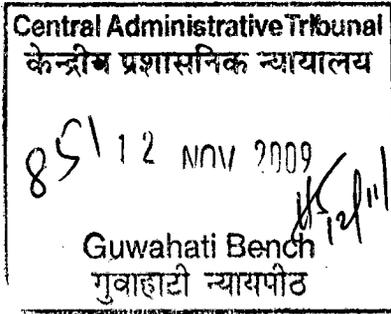
(Amardeep S. Bhatia)
Director(NE)
TeleFax: 23062432
E-mail: amardeep.bhatia@rediffmail.com



98

Filed by: 204
Yookarin Khonglah
Respondent No. 4
through
A.H. Dutt, Advocate
11/11/09

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
GUWAHATI BENCH, GUWAHATI.



IN THE MATTER OF:-

ORIGINAL APPLICATION No. 184 OF 2009

Dr. Dilip Kumar Parida & Anr.

..... APPLICANTS

Yookarin Khonglah

-Vs-

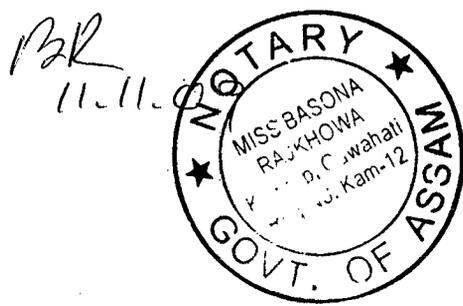
The Union of India & Ors.

..... RESPONDENTS

AN AFFIDAVIT-IN-OPPOSITION ON BEHALF OF THE
RESPONDENT NO. 4 ABOVE-NAMED:-

I, Yookarin Khonglah, wife of Dr. Noor Topno, aged about 38 years, by profession a Physician, and presently residing at NEIGRIHMS Campus, Qtr. No. B9-B, Mawdiangdiang, Shillong-793018, Meghalaya, do hereby solemnly affirm and state as follows:-

1. That having been impleaded as Respondent No. 4 in the instant case upon an Application filed by me, I am competent to swear the instant Affidavit.
2. That I have been served with a copy of the instant Original Application and upon perusal of the same, I have understood the contents thereof.



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3. That I deny the correctness of the averments made in the various Paragraphs of the Application save and except those, which may be specifically admitted herein and/or are borne out from the records of the case.
4. That at the outset I beg to state that I am serving as an Assistant Professor, Department of Pathology in North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences (Hereinafter referred to as the NEIGRIHMS), Shillong.
5. That it is pertinent to mention herein that the Director, NEIGRIHMS, Respondent No.3 herein issued an Advertisement, bearing No. NEIGR-15/ 2004 on 17/10/2007 for selection and appointment of candidates for the Posts of Professor, along with Assistant Professor and Associate Professor, in the various Departments of the Institute, and accordingly, I applied for the Post of Associate Professor in my respective discipline/ subject, but owing to certain reasons, interviews for Posts of all the Departments, which were advertised, were held, except for Pathology, Obstetrics & Gynaecology, and a few other Departments. My application remained pending and was not rejected.
6. That as regards the averments made in Paragraphs 4.4 of the Application, I beg to state that it is not correct as alleged or otherwise. Furthermore, the claim of the Applicants that the old Recruitment Rules so adopted by NEIGRIHMS is an obsolete one and could not serve the purpose of the Institute towards recruitment of quality faculty members ought not to be relied upon by this Hon'ble Tribunal and moreso the Applicants, being faculty members of the Institute, have no locus standi to make such a claim in as much as the same is a Policy decision of the Institute. The old Rules remain applicable unless the same are replaced or amended by fresh Recruitment Rules and made applicable.

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Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
3
12 NOV 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

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7. That as regards the averments made in Paragraphs 4.5 and 4.6 of the Application, I beg to state that the claims of the Applicants are not supported by cogent documents and the Applicants are put to the strictest proof thereof.

8. That as regards the averments made in Paragraphs 4.7 to 4.13 of the Application the same being matters of record, I do not admit anything beyond the records that may be produced.

9. That as regards the averments made in Paragraph 4.14 of the Application, I beg to state that the Director, NEIGRIHMS, subsequently, issued another Advertisement on 20/09/2008, wherein it was clearly mentioned that "Candidates who had applied earlier against Advertisement No. NEIGR-15/2004 dated 17/10/2007 need not apply again", which clearly indicates that the said Advertisement dated 20/09/2008 is a continuation of the earlier Advertisement dated 17/10/2007 and as I was eligible for promotion since 2007, I was allowed to participate in the Selection process, held against the Advertisement impugned dated 20/09/2008.

10. That as regards the averments made in Paragraphs 4.15 and 4.16 of the Application, I beg to state that the claims of the Applicants are misconceived and not correct. Furthermore, the matter of relaxation of qualification is the prerogative of the Screening Committee of which the Director, NEIGRIHMS, the Respondent No.3 herein, is the Chairperson. Moreover, no relaxation of qualification was required for me, and I, having fulfilled all the required criteria, was called for the Interview.

11. That while denying the correctness of the averments made in Paragraphs 4.17 and 4.18 of the Application, I beg to state that a

11.11.09
MISS BASONA
RAJKHOWA
Kamrup, Guwahati
Reg.No. Kam-12
GOVT. OF ASSAM
NOTARY

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
4 12 NOV 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

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decision was taken by the Governing Council of NEIGHRIMS on 22/09/2008, after two days from the date of issuance of the Advertisement impugned dated 20/09/2008, to amend the NEIGRIHMS Recruitment Rules 2003, which was in force at the time of issuance of the said Advertisement dated 20/09/2008. Furthermore, the Medical Council of India, with the previous sanction of the Central Government, has prescribed certain Regulations to amend the "Minimum Qualifications for Teachers in Medical Institutions Regulations, 1998, which was published in the Gazette Notification dated 24/07/2009.

Refer
[Signature]

12. That while denying the correctness of the averments made in Paragraphs 4.19 to 4.20 of the Application, I beg to state that it is necessary to point out herein that a due procedure is followed in the process of implementation of any new Recruitment Rule in respect of NEIGRIHMS, and without complying with all the formalities, the new Recruitment Rules cannot be deemed to be given effect to, and the new proposed Recruitment Rules of 2009 not having been given effect to in the instant case, the question of implementation of the proposed new Recruitment Rules, at this stage, does not arise at all.
13. That I beg to state herein that there exists a procedure to be followed for the purpose of implementation of the new Recruitment Rules, if implemented, which is as follows:-

First of all the Governing Council adopts a Resolution/ decision to change the existing Recruitment Rules, which, on approval by the Hon'ble Minister of Health & Family Welfare, Government of India who is also the Ex-Officio President of the Governing Council, are put up in the next Governing Council for approval before final Gazette Notification, and the same process having not been followed

in the instant case, the question of implementation of the new

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11.11.09



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purported Recruitment Rules of 2009, at this stage, does not arise at all. The said procedure was followed when NEIGRIHMS Recruitment Rules-1990 was amended and NEIGRIHMS Recruitment Rules-2003 was brought into force. Furthermore, a mere adaptation of a decision to change the Recruitment Rules does not tantamount to a new Recruitment Rule coming into force. For any amendment to be made, a new Rule has to be implemented after following all the requisites as prescribed by law, and as such, the claims of the Applicants being devoid of merit, the instant Original Application is liable to be dismissed with costs.

14. That as regards the averments made in Paragraphs 4.21 to 4.23 of the Application, I beg to state that I had applied for the Post against the 2007 Advertisement and as per the Advertisement dated 20/09/2008 I was not required to apply afresh as the Advertisement dated 20/09/2008 is a continuation of the earlier 2007 Recruitment process, and I, having fulfilled all the criteria as per the requirements of the Advertisement dated 20/09/2008, was called for the Interview, which was held on 08/09/2009, and in view of the interim Order of the Hon'ble Tribunal, my right, along with some other similarly situated candidates, being adversely affected, I have impleaded myself and have sought for dismissal of the instant application as well as vacation of the interim Order dated 10/09/2009.

15. That none of the grounds averred to in the Original Application are valid or legally tenable grounds in view of the statements and averments made hereinabove. I further submit that the Applicants' interpretation of law under Article 14 of the Constitution of India is completely misconceived in as much as no reasonable classification has sought to be made out which may tantamount to denial of equality to the Applicants, and as such, the instant Original Application is liable to be summarily dismissed with costs.

Ad

11.11.09



12 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ6
-103-

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16. That I further submit that NEIGRIHMS is running into a crisis where there is an acute shortage of faculty, which is adversely affecting the fate of the students of the Institute and the said shortage of faculty may ultimately lead to de-recognition of the Institute by the Medical Council of India, which will not only affect the State of Meghalaya but also the entire North Eastern States of the Country in as much as the healthcare sector in the North Eastern region of the Country is still in a pathetic situation.
17. That I further submit that the patient care of the Institute will suffer owing to shortage of Doctors in as much as most of the Junior Doctors are from Assam and since the Government of Assam has made it compulsory for the newly passed out Doctors to serve atleast one year in a rural posting, the Doctors who had joined NEIGRIHMS had to necessarily resign and go back to Assam.
18. That in the aforesaid circumstances, the Institute has rightly issued the said Advertisement dated 20/09/2008 for selection and appointment of candidates for the Posts of Professor, along with Associate Professor and Assistant Professor, in the various Departments of the Institute on the strength of the Recruitment Rules, 2003 since no new Recruitment Rules were adopted, and as such, there can be no reason for this Hon'ble Tribunal to interfere with the action initiated by the Institute for selection and appointment of Professors, Associate Professors and Assistant Professors and as such, the instant Application is liable to be dismissed with costs.
19. That the Applicants have misrepresented facts before this Hon'ble Tribunal and have not furnished any Notification to the effect that the Recruitment Rules, 2009, has come into force from a particular date.

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Handwritten initials and date
11.11.09



12 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

20. That the Applicants have failed to make out a case warranting interference by this Hon'ble Tribunal and as such the instant Original Application is liable to be summarily rejected with compensatory costs.
21. That the instant Original Application is misconceived and highly frivolous and is not maintainable in the eye of law and as such it is liable to be rejected with costs.
22. That the statements made in Paragraphs 1 to 8, 10 to 14 & 19 are true to my knowledge, those made in Paragraph 9, being matters of record are true to my information derived therefrom which I believe to be true, and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this affidavit on this the 11th day of November, 2009 at Guwahati.

Identified by:

Deepraj Bhuyan

11/11/09

Advocate.

Yookarin Khonglah
YOOKARIN KHONGLAH

DEPONENT

Solemnly affirmed
before me.

Bl
11.11.09



File No. ...
Court of Secy. - 81

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय
04 NOV 2009
Guwahati Bench
গুৱাহাটী

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:: GUWAHATI

Filed by
The Applicants
Through,
U-10-1009
Advocate, 40-10-09

ORIGINAL APPLICATION NO. 184 / 2009

Receipt copies
1000
Advocate's certificate
2-10-09
4/11/09

Dr. Dilip Kumar Parida & Anr.
.....Applicants

Versus

The Union of India & Ors.
.....Respondents

AND

IN THE MATTER OF

An additional affidavit to bring on record the position as regards parties to the proceeding in the above noted Original Application.

Amendments
U-10-1009
4/11/09
in R.No. 205 & 6

R. D. Das
4/11/09
for R.No. 12 & 3

1. That the applicants above named had approached this Hon'ble Tribunal by way of filing the above noted Original Application assailing the legality and validity of an advertisement dated 20.09.08 (Annexure-8 to the original application). This Hon'ble Tribunal upon examination of the matter was pleased vide its order dated 10.09.09 to direct the official respondents not to proceed with the recruitment under the impugned advertisement.

2. That being aggrieved by the said interim directions as passed by this Hon'ble Tribunal persons desirous of participating in the recruitment process initiated vide the impugned advertisement approached this Hon'ble Tribunal by way of filing applications praying for impleading them as party respondents in the proceedings of OA No.184/2009. This Hon'ble Tribunal vide order dated 27.10.09 was pleased to allow the prayer of the said persons and directions came to be issued towards impleading them as party respondents. Accordingly, with the addition of the newly impleaded

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04 NOV 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

respondents, the cause title of the above noted Original Application has undergone a change, necessitating filing of this additional affidavit to bring on record the changes effected in the cause title of the Original Application.

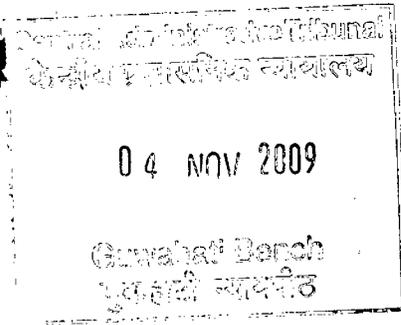
3. That with the passing of the order dated 27.10.09, the position existing as regards the parties to the proceeding are noted herein below;

1. Dr. Dilip Kumar Parida, resident of Quarter No. B-8C, NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong – 793018, Meghalaya.
2. Dr. Mihir Kumar Goswami, resident of Quarter No. B-1C, NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong – 793018, Meghalaya.

....Applicants

-AND-

1. The Union of India represented by the Secretary, Ministry of Health, Depart of Family Welfare, North East Division, Nirman Bhawan, New Delhi – 110108.
2. The Governing Council, NEIGRHIMS, represented by its Chairman, NEIGRHIMS Campus, Mawdiangdiang, Shillong – 793018, Meghalaya.
3. The Director, NEIGHRIMS, NEIGRHIMS Campus, Mawdiangdiang, Shillong – 793018, Meghalaya.
4. Dr. Yookarin Khonglah, Assistant Professor, Department of Pathology, NEIGRIHMS Campus, Qtr No. B-9B, Mawdiangdiang, Shillong-793018, Meghalaya.



5. Dr. Subrat Panda, son of Shri Makar Chandra Panda, Assistant Professor (O&S), Resident of Quarter No. B-9C, NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong-793018, Meghalaya.

6. Dr. (Mrs) Jaya Mishra, D/o Prof. R.R.Mishra. Quarter No. B-9C, NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong-793018, Meghalaya.

....Respondents

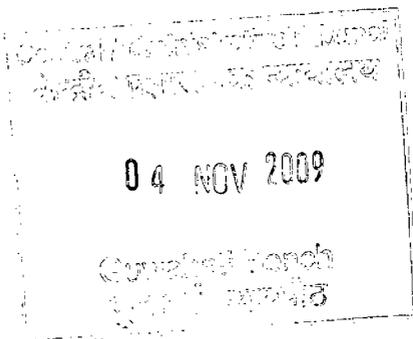
(Respondents no. 4, 5 and 6 impleaded as Respondents vide Order dated 27.09.09 passed in OA. No.184/ 09)

4. That it is prayed that this Additional affidavit be treated to be the part and parcel of the Original Application and the same be relied upon for the purpose of determining the parties to the proceedings.

5. That this Additional Affidavit has been sworn bonafide for securing the ends of justice.

..... Verification/-





--VERIFICATION--

I, Dr. Mihir Kumar Goswami, aged about 47 years, son of Dr. Braja Mohan Goswami, resident of Quarter No. B-1C, NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong – 793018, Meghalaya, do hereby solemnly affirm and verify that I am the applicant No. 2 in Original Application No. 184/2009 and I have been duly authorised to swear this verification on behalf of the applicant no. 1 therein and as such I am competent to swear this affidavit conversant with the facts and circumstances of the case, the statements made in paragraph 1, 2, 3 and 5 _____ are true to my knowledge and the rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign this verification on this the 03rd day of November, 2009,
at Guwahati.

Mihir Kumar Goswami

DEPONENT

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
GUWAHATI

In O.A. No 184 / 2009

In the Matter Of :-

Dr. Dilip Kr. Parida & Anr.

Applicant(S)

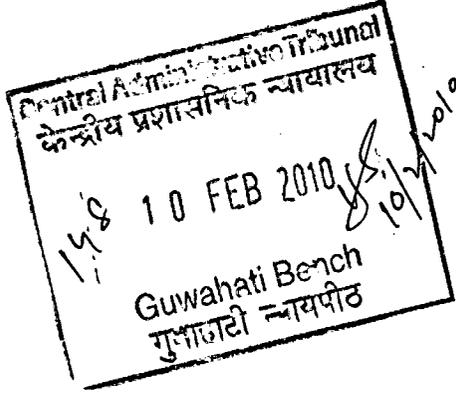
-Versus-

1. The Union of India, represented by the Secretary, Ministry of Health Dept. of Family Welfare, North East Division, Nirman, Bhawan, New Delhi.-110103.
2. The Governing Council, NEIGRIHMS, represented by its Chairman, NEIGRIHMS Campus, Mawdiangdiang, Shillong, Meghalaya-793018.
3. The Director, NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong, Meghalaya-793018.
4. Dr. Yokarin Khonglah, R/O NEIGRIHMS Campus, Mawdiangdiang, Shillong
5. Dr. Subrat Panda, S/O Shri Makar Chandra Panda, Assistant Professor (O&G) Resident of Quarter No. B-9C. NEIGRIHMS Campus, Mawdiangdiang, Shillong-793018, Meghalaya.
6. Dr. (Mrs) Jaya Mishra, D/O Prof. R.R. Mishra, Quarter No. B9A.. NEIGRIHMS Campus, Mawdiangdiang, Shillong-793018, Meghalaya. Respondants

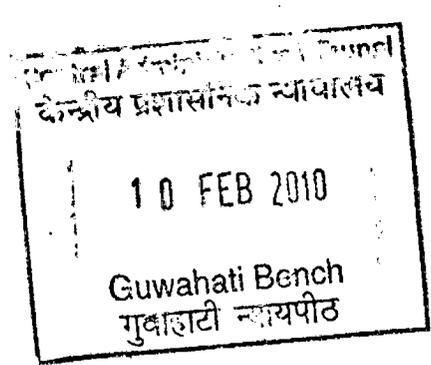
-AND-

IN THE MATTER OF

Furnishing the copy of the order dated 9.2.2010 in W.P © No. II SM) of 2010 passed by the Hon'ble Gauhati High Court, (Division) Shillong Bench.



Filed by: rshillong
10/02/2010
For Respdt
Advocate, Shillong No. 586



Most respectfully Sheweth:

1. That the respondents No. 5 & 6 in the instant O.A. 184 of 2009 had Preferred a W.P © No.11 (SH) 2010 Before the Hon'ble Gauhati High Court ,Shillong Bench(Division) for vacating the interim order dated 10.9.2009 passed by the Hon'ble Central Administrative Tribunal,Guwahati Bench, as well as for disposal of the Original Application No. 184/2009.
2. That the Hon'ble Gauhati High Court (Division) Shillong Bench Was pleased to disposed of the said WP © No 11 (SH) 2010. at the Motion stage on 9.2.2010
3. That Hon'ble Gauhati High Court (Division) Shillong Bench while Disposing of the said W.P was pleased to communicated to this Hon'ble Tribunal , C.A.T. Guwahati to here and disposed of the interim order dated 10.9.2009 as well as the application for vacation of the interim order within one week for serving the endsOf justice.
(The copy of the order dated 9.2.2010 passed by the Hon'ble High Court Shillong Bench is enclosed and marked as Annexure -A).
4. That this petition is filed bonafide for the ends of justice

In the premises it is therefore prayed that your Lordships would graciously be pleased to accept The order passed by the Hon'ble High Court,Shillong Bench which is being furnished and Enclosed alongwith this petition and further be pleased to vacate the interim order as well as to disposed of the O.A. 184/2009, accordingly.

And for which act of your kindness the humble respondents shall ever pray.

Dated Guwahati
the 10.2.2010

Humble Respondants.

Subat Panda
Jaya Mishra

IN THE GAUHATI HIGH COURT
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
MANIPUR AND TRIPURA)

SHILLONG BENCH
CIVIL APPELLATE SIDE

Appeal from W.P.C.

No 1185

of 2010

Civil Rule

Dr. Subal Chandra Das

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

10 FEB 2010

Guwahati Bench
গুৱাহাটী ন্যায়পীঠ

Appellant
Petitioner

Union of India vs *Versus*

Respondent
Opposite-Party

For Appellant Mr. K. S. Kanyal, Sr. Advocate

For Petitioner Mr. R. Sanyal, Sr. Advocate

For Respondent Mr. R. Das, Advocate
G.C.



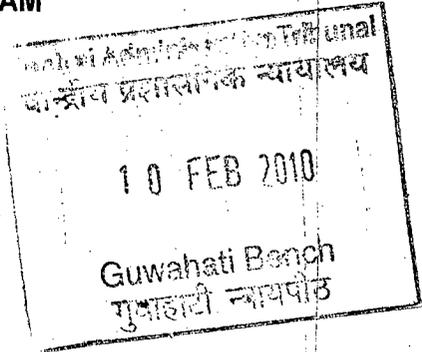
Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	4

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BEFORE
THE HON'BLE MR JUSTICE T VAIPHEI
THE HON'BLE MR JUSTICE ASOK POTSANGBAM

WP(C) NO.11(SH)2010

9.2.2010



We have heard Mr KS Kynjing, the learned senior counsel assisted by Mr H Kharmih, the learned counsel for the petitioners and Mr R Debnath, the learned CGC appearing for the respondent Nos.1,2 and 3.

In view of the nature of the grievances projected by the learned senior counsel for the petitioners in the course of motion hearing, we do not find it necessary to issue formal notices to the respondents and decide to dispose of this writ petition at the motion stage.

The principal grievance of the petitioners appears to be that the application for interim order has not been disposed of by the Tribunal till now despite the show cause filed by the petitioners as early as November 2009. It is also stated by Mr R Debnath, the learned CGC appearing for the respondent Nos.1,2 and 3 that the application filed by the Institute for vacation of the interim order on 16.10.2009 has also not been disposed of. That apart, the learned senior counsel for the petitioners has also challenged the locus standi of the respondent Nos. 4 and 5 in challenging the recruitment process of the advertisement dated 17.10.2007 as well as the Notification dated 20.9.2008. He also raises many other contentions touching upon the merit of the case.

We have given our anxious consideration to the various contentions raised by the learned senior counsel for the petitioners, which are also supported by Mr R Debnath, the learned CGC. We do not comment on the merit of the case at this stage. However, considering the fact that the case is of urgent nature, instead of disposing of the writ petition on merit, we feel that the ends of justice will be served if the Tribunal hears and disposes of the application for interim order as well as the application for



Central Appellate Tribunal
केन्द्रीय अपीलानुक्त न्यायालय
10 FEB 2010
Guwahati Bench
गुवाहाटी न्यायालय

vacation of the interim order within one week from today.

A copy of this order be furnished to the learned counsel for the petitioners as well as the learned CGC in the course of the day.

Writ petition stands disposed of.

A. Potdar
JUDGE

T. Karphai
JUDGE

mdk



TRUE COPY
[Signature]
Court Master
Gauhati High Court
Shillong Bench

केन्द्रीय प्रशासनिक न्यायालय
1634-9 SEP 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::

GUWAHATI BENCH:: GUWAHATI

ORIGINAL APPLICATION NO. 184 / 2009

Dr. Dilip Kumar Parida & Anr.

....Applicants

-Versus -

The Union of India & ors.

....Respondents

SYNOPSIS

Being aggrieved by the deprivation and the discrimination meted out to the applicants in disqualifying them on the basis of the qualifications prescribed by the erstwhile Recruitment Rules of the NEIGRIHMS from appearing in the selection process for filling up the faculty posts of Professor in the subjects of Medicine and Radiotherapy vide the advertisement dated 20.09.2008, they have come under the protective hands of Your Lordship's for redressal of their genuine and bonafide grievances.

The applicants are presently working as Assistant Professor and Associate Professor in the departments of Medicine and Radiotherapy in the NEIGRIHMS. The Governing Council of NEIGRIHMS adopted a Recruitment Rule in the year 2000 for recruitment of faculty members, which was faulty and defective in nature necessitating forwarding of recommendation by Director of the Institution towards scrapping of the same and adoption of a new set of Recruitment Rules in tune with the Recruitment Rules of the AIIMS and PGIMER. Consequently, the Governing Council in its meeting held on 22.09.2008 by scrapping the old Rules adopted a new set of Rules in tune with the Recruitment Rules of the AIIMS. In terms of the new Recruitment Rules, an incumbent has to render 14 years of cumulative teaching/research work for becoming eligible for selection for the post of Professor whereas the old Recruitment Rules required 4 years of service against the post of Associate

केंद्राच प्रशासनक न्यायालय
5-9 SEP 2009
Guwahati Bench
गुवाहाटी न्यायपीठ

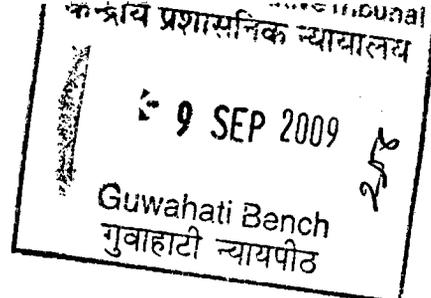
Professor for the same purpose. Both the applicants are eligible in terms of the qualifications prescribed by the new Recruitment Rules to appear for selection as Professor in the NEIGRIHMS.

The Director, NEIGRIHMS who was very much aware of the fact that the Governing Council of the Institution was taking up as one of its agendas, the issue of amendment of the old Recruitment Rules in conformity with the Recruitment Rules of the AIIMS, had just two days prior to the sitting of the said Governing Council had issued the advertisement dated 20.09.2008 inviting applications amongst others, for filling up the posts of Professor in the departments of Medicine and Radiotherapy on the basis of the qualification prescribed by the old Recruitment Rules thereby depriving the applicants from qualifying to appear in the said selection process initiated vide the advertisement dated 20.09.2008, they having not rendered four years of service against the post of Associate Professor.

The Director, NEIGRIHMS himself having held the erstwhile Recruitment Rules to be defective and not feasible for implementation towards filling up the various faculty posts in the Institution, his action towards issuing the advertisement dated 20.09.2008 on the basis of the qualifications prescribed by the erstwhile Recruitment Rules smacks malice on the face of it and the only reason for the said decision is to favour the blue eyed persons of the higher ups in the Institution in the ensuing selection process by reducing its competitiveness by narrowing down the ambit of highly qualified candidates such as the applicants. Highlighting the said aspect of the matter, the applicant preferred series of representation praying for ameliorating their genuine and bonafide grievance, but the same failed to yield any positive result. As such, this application praying for urgent and immediate relief/reliefs.

Filed by :-


C.B. Saniya
09/09/2009
Advocate.



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::

GUWAHATI BENCH:: GUWAHATI

ORIGINAL APPLICATION NO. 184 / 2009

Dr. Dilip Kumar Parida & Anr.

....Applicants

-Versus -

The Union of India & ors.

....Respondents

LIST OF DATES

1. 1987 - The NEIGRIHMS established by the Government of India under the Meghalaya Registration of Societies Act, 1983.
2. 1989 - Appellant No.2 completed M.D. Course in General Medicine.
3. 1994 - Appellant No.1 completed M.D. Course in Radiation Oncology.
4. 2000 - NEIGRIMS adopts a set of Recruitment Rules for the faculty members.
5. 2004 - Applicant No.1 joins the Institute as an Assistant Professor and functioning since then as the Head of the Department of Radiotherapy.
6. 30.6.2005 - The applicants preferred a representation before the Director, NEIGRIMS highlighting the various deficiencies in the Recruitment Rules of 2000.

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7. 07.04.2006 - In pursuance of the representation dated 30.06.2005, the Director, NEIGRIMS forwarded a communication to the Joint Secretary, Ministry of Health and Family Welfare for placing the matter before the competent authority. P/27

8. 27.07.2007 - The Director, NEIGRIHMS again communicates with the Joint Secretary, regarding the matter of amendment of the Recruitment Rules and approval for filling up the faculty posts in the Institute. P/29

9. 2007 - Applicant No.2 joins the Institute as an Associate Professor (on deputation) and functioning since then as the Head of the Department of General Medicine.

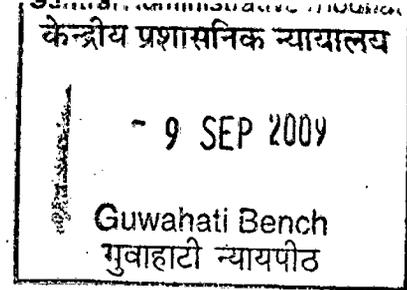
~~30.09.2008~~
10. 20.09.2008 - Advertisement bearing No. NEIGR-E.II/19/2004/Pt.V issued by the Director, NEIGRIMS for selection and appointment of candidates for the various faculty posts in terms of the qualifications prescribed by the Recruitment Rules of 2000. P/51

11. 22.09.2008 - The Governing Council of the NEIGRIMS abandoned the old Rules of 2000 and adopted a new set of Rules in tune with that of AIIMS, PGIMER, etc. P/36(40)

12. 12.02.2009 - The screening committee disqualified the applicants from appearing in the selection process initiated vide the advertisement dated 20.09.2008 for selection of candidates for the posts of Professor in the department of Medicine and Radiotherapy.

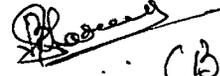
13. 25.02.2009 - The applicants preferred representation before the Secretary, department of Health and Family Welfare praying for screening their applications as per the qualifications prescribed by the new Recruitment Rules.

30.06.2009 -



14. 17.08.09 & 28.08.08 - The applicants preferred representations before the Director, NEIGRIHMS praying for screening their applications as per the qualifications prescribed by the new Recruitment Rules.

Filed by


C.B. Sharma
Advocate 09/09/2009

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH:: GUWAHATI

ORIGINAL APPLICATION NO. 184 / 2009

Dr. Dilip Kumar Parida & Anr.

....Applicants

-Versus -

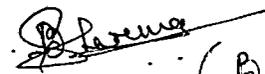
The Union of India & ors.

....Respondents

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Filed By


(B. Sharma.)
Advocate 09/09/2009

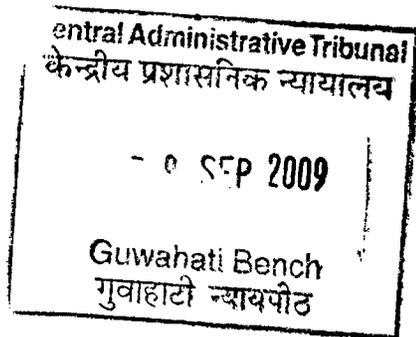
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ::
GUWAHATI BENCH:: GUWAHATI

ORIGINAL APPLICATION NO. 184 / 2009

BETWEEN

1. Dr. Dilip Kumar Parida, resident of
Quarter No. B-8C, NEIGRIHMS,
NEIGRIHMS Campus, Mawdiangdiang,
Shillong – 793018, Meghalaya.

2. Dr. Mihir Kumar Goswami, resident
of Quarter No. B-1C, NEIGRIHMS,
NEIGRIHMS Campus, Mawdiangdiang,
Shillong – 793018, Meghalaya.



Filed by:- the Applicants
through → Brijesh Sharma.

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Attocate. 09/09/2009

....Applicants

-AND-

1. The Union of India represented by
the Secretary, Ministry of Health, Depart of
Family Welfare, North East Division,
Nirman Bhawan, New Delhi – 110108.

2. The Governing Council,
NEIGRHIMS, represented by its Chairman,
NEIGRHIMS Campus, Mawdiangdiang,
Shillong – 793018, Meghalaya.

3. The Director, NEIGRHIMS,
NEIGRHIMS Campus, Mawdiangdiang,
Shillong – 793018, Meghalaya.

*4. Dr. Yookarim Khonglah,
NEIGRIHMS Campus,
Qtr. No- B9- B,
Mawdiangdiang,
Shillong-793018
Meghalaya.

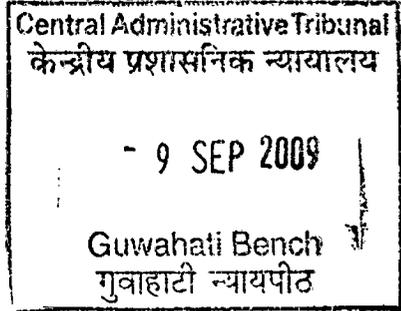
*5. Dr. Subrat panda,
Shri M.C. panda,
Assistant professor (orly)
R/o-Qtr. No. B-9C, NEIGRIHMS,
NEIGRIHMS campus
Mawdiangdiang, Shillong
pin-793018, Meghalaya.

*6. Dr. (Mrs) Jaya Mishra,
D/o Prof. R.R. Mishra,
Qtr. No- B9A, NEIGRIHMS
NEIGRIHMS campus
Mawdiangdiang, Shillong,
pin-793018, Meghalaya.

....Respondents

* Impleaded as resp. Nos 4, 5 and 6 vide
order dated 27/10/2009 passed in MP 111/09
and MP No. 113/09 respectively.

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1. **PARTICULARS OF THE ORDER AGAINST WHICH THIS APPLICATION IS MADE:**

This original application has been preferred against the advertisement bearing No. NEIGR-E.II/19/2004/Pt.V dated 20.09.2008 issued by the Director, NEIGHRIMS inviting applications amongst others, for selection and appointment of candidates for the posts of Professor in the Departments of Medicine and Radiotherapy by reckoning the qualifications prescribed by the erstwhile Recruitment Rules of the Institute, which was considered to be defective and not feasible for implementation by office of the Director itself and totally ignoring the provisions of the new amended Rules towards prescribing the qualifications for selection and appointment of candidates against the abovementioned posts thereby meting out the applicants with hostile deprivation and discrimination only to favour the blue eyed persons of the higher ups in the Institution.

2. **JURISDICTION:**

The applicants further declare that the subject matter of the case is within the jurisdiction of the Administrative Tribunal.

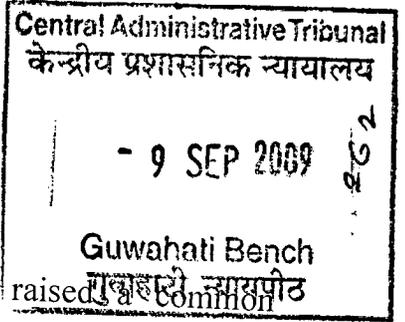
3. **LIMITATION:**

The applicant declares that the instant case has been filed within the limitation period prescribed under Section 21 of the Central Administrative Tribunal Act, 1985.

4. **FACTS OF THE CASE:**

4.1. That the applicants are citizens of India by birth and residents of the above mentioned locality in the state of Meghalaya and as such they are entitled to all the rights, protections and privileges guaranteed under the Constitution of India and the laws framed there under.

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4.2 That the applicants state that they have raised a common grievance arising out of the same cause of action in the instant Original Application and the remedy/ relief(s) sought for on their part is the same and similar. As such they crave leave of this Hon'ble Tribunal to join hands together to prefer this common application for redressal of their genuine and bonafide grievances, under Rule 4(5)(a) of the C.A.T (Procedure) Rules, 1987. *h*

4.3 That the North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences (herein after referred to as NEIGRIHMS) is an autonomous Institution established by the Government of India under the Meghalaya Registration of Societies Act 1983 and is controlled by its Governing Council, which its highest policy making body headed by its Chairman being the Union Cabinet Minister, Ministry of Health and Family Welfare, Government of India. The NEIGRIHMS has now been designated as a Post Graduate Medical Institution in the lineage of AIIMS, New Delhi and PGIMER, Chandigarh. It is the first and the only Post Graduate Medical Institute in the North Eastern Region and the third in the country established by the Ministry of Health and Family Welfare, Government of India. It is pertinent to mention here that all the Postgraduate Medical Institutions established by the Central Government follows the same Recruitment Rules and the NEIGRIHMS is no exception, which had keeping in mind the various difficulties in the process of recruitment of faculty members in the Institution, adopted vide its Governing Council meeting held on 22.09.2008 the Recruitment Rules being in tune with the Recruitment Rules of the other Postgraduate Medical Institutes such as AIIMS, PGIMER, etc. The adoption by the Governing Council NEIGRIHMS, on 22.09.2008, of the new Recruitment Rules was to facilitate induction of qualified faculty, which hitherto before was not feasible due to the faulty and defective Rules in operation before 22.09.2008.

An extract of the new Recruitment Rules of NEIGRIHMS is annexed as Annexure - 1.

4.4 That the applicants state that after its establishment in the year 1987, the Governing Council of the NEIGRIHMS had adopted a set of

- 9 SEP 2009

Guwahati Bench
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Recruitment Rules for the faculty members of the Institute in the year 2000. The Recruitment Rules so adopted is an obsolete one and could not at all serve the purpose of the Institute towards recruitment of quality faculty members, which pattern is followed by State Government and Private Medical Colleges and not by Institute of national importance such as AIIMS, PGIMER, etc. Therefore the Governing Council in its meeting held on 22.09.2008 had abandoned the said Rules of 2000 and adopted a new set of Rules in tune with that of the AIIMS, PGIMER, etc.

An extract of the old Recruitment Rules is annexed as Annexure – 2.

4.5 That your applicants state that they had successfully pursued and completed their MD course in the subjects of Radiation Oncology and General Medicine respectively in the years 1994 and 1989. The applicant No. 2 had subsequently also obtained his Ph.D degree in the subject of General Medicine in the year 1994. The applicant No. 1 on completion of his MD degree in Radiation Oncology had joined the AIIMS as Senior Residency Doctor in the year 1995 and continued as such till February, 1998. Thereafter w.e.f February, 1998 to February, 2001 he served the said Institute as Senior Research Associate and w.e.f February, 2001 to August, 2004 he functioned as Research Assistant therein. The applicant No. 2 after completion of his MD course joined the Guwahati Medical College as Resident Physician in the year 1990 and continued as such till February, 1996. Thereafter he was promoted to the post of Assistant Professor on February, 1996 and held that post till August, 2001 when he came to be transferred to Assam Medical College in the same capacity and continued as such till August, 2007.

4.6 That the applicants state that they had joined in service of the NEIGRIHMS in the year 2004 and 2007 respectively. The applicant No. 1 is the first incumbent in the Institute to join as an Assistant Professor in the year 2004 and since then has been functioning as the Head of the Department of Radiotherapy. The applicant No.2 has joined the Institute on deputation as an Associate Professor on August, 2007 and has been functioning as the Head of

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the Department of General Medicine since then. Both the applicants have carried out high end research works on various aspects in the field of Medical Science, which works have been published in various National and International Journals. One such research work by the applicant No. 1, which was reported in March 13, 2008 edition of The New England Journal of Medicine is "A Nationally Representative Case-Control Study of Smoking and Death in India", which study ultimately resulted in imposition of ban on smoking in public places by the Government of India. The applicant No. 2 on the other hand is the first amongst the Doctors in the North-Eastern region to be awarded the Doctorate Degree in the branch of Medicine doing extensive research work on high blood pressure.

4.7 That your applicants state that the erstwhile Recruitment Rules that was adopted by the Governing Council of NEIGRIHMS turned out to be inadequate for meeting the requirements of the Institute and failed in attracting qualified and competent candidates for the various posts meant for the faculty members. The Institute has till date issued seven advertisements towards filling up 160 number of various posts meant for the faculty members and has been able to recruit on 35 candidates against those advertisements incurring an expenditure of Rs. 1,30,00,000/- due to the defective nature and practical difficulties in operating the Recruitment Rules of 2000.

4.8 That your applicants state that the basic difference between the old Recruitment Rules of 2000 and the newly adopted amended Rules of 2008 are enumerated below in the form of a comparative chart for perusal by Your Lordships'

New Rules of NEIGRIHMS	Old Rules of NEIGRIHMS
Professor (Medical):- Fourteen years teaching and/ or research experience in a recognised Institution in the subject of specialty after obtaining the qualifying degree of MD/ MS or twelve years after obtaining M.Ch. D.M or qualification recognised equivalent thereto.	Professor (Medical):- Four years teaching experience as Associate Professor.

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<p><u>Associate Professor (Medical):-</u> Six years teaching and/ or research experience in a recognised Institution in the subject of specialty after obtaining the qualifying degree of MD/ MS or four years after obtaining M.Ch./ D.M or qualification recognised equivalent thereto.</p>	<p><u>Associate Professor (Medical):-</u> Five years of teaching experience as Assistant Professor/ Lecturer/ Demonstrator.</p>
<p><u>Assistant Professor (Medical):-</u> Three years teaching and/ or research experience in a recognised Institution in the subject of specialty after obtaining the qualifying degree of MD/ MS or qualification equivalent thereto.</p>	<p><u>Assistant Professor (Medical):-</u> Three years teaching experience.</p>

4.9 That your applicants states that after recruitment of faculty members began in the year 2004, the discrepancies in the Recruitment Rules of 2000 came to light, which were discussed among the faculty members of the Institute and consequently, the faculty members represented before the Director, NEIGRIHMS on 30.06.2005 highlighting the various loopholes and deficiencies in the said Recruitment Rules, which had adversely affected their career advancement prospects in the Institute and prayed for adopting correcting measures towards the same. The discrepancies highlighted in the representation dated 30.06.2005 are not stated herein for avoiding repetition and for the sake of brevity however, the applicants beg to rely on the contents of the said representation before this Hon'ble Tribunal.

A copy of the representation dated 30.06.2005 is annexed as **Annexure – 3.**

4.10 That your applicants state that there was a positive response from the Director, NEIGRIHMS on the representation dated 30.06.2005 and resultant discussions ensued amongst the Director, faculty members and

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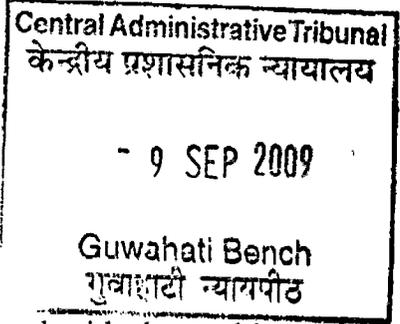
prominent academicians such as Chairman of the National Board of Examination, Vice Chancellor of the North Eastern Hill University and other dignitaries who had visited the Institute to take a stock as to the reasons for poor response and turnout of candidates against the repeated advertisements for the Faculty positions during the last two years. The ensuing discussions gave way to the conclusion that the existing Recruitment Rules of NEIGRIHMS was faulty and defective with lots of ambiguities in terms of qualification, experience etc. for the different categories of posts. Consequently, comparing the Recruitment Rules of the premier Institute's of the country i.e., AIIMS, PGIMER, SGPGI, which Institute's stands on the same footing as the NEIGRIHMS, a set of draft revised Recruitment Rules was prepared for the NEIGRIHMS. Incorporating all these aspects of the matter, the Director, NEIGRIHMS forwarded a communication dated 07.04.2006 to the Joint Secretary, Ministry of Health and Family Welfare for placing the matter before the competent authority for perusal and necessary approval.

A copy of the communication dated 07.04.2006 is annexed as Annexure - 4.

4.11 That your applicants state that during the visit of the Hon'ble Union Health Minister along with the Parliamentary Committee attached to the Ministry of Health and Family Welfare on 27.06.2007 it was decided to start MBBS course in the Institute from the next academic session necessitating immediate recruitment of faculty members, but for the non finalization of the Recruitment Rules, recruitment of faculty members could not be undertaken. Faced with the urgency to recruit the concerned faculty members, the Director, NEIGRIHMS had vide his communication bearing No. NEIGR-E-II/15/2004/205 dated 27.07.2007 addressed to the Joint Secretary (NE), Ministry of Health and Family Welfare requested to convey the decision of the Ministry on the matter of Recruitment Rules of faculty posts sanctioned in the Phase - II and amendment of the existing Recruitment Rules in tune with the AIIMS Recruitment Rules.

A copy of the communication dated 27.07.2007 is annexed as Annexure - 5.

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4.12 That your applicants state that faced with the problem of failing to recruit candidates for the various faculty posts in the Institute owing to the loopholes and obsolete provisions in the old Recruitment Rules in attracting qualified and competent candidates, the Director, NEIGRIHMS finding no response to his earlier communication bearing No. NEIGR-E.II/15/2004/ dated 19.02.2008 addressed to Joint Secretary (KR), Health and Family Welfare Department highlighting before the said authority the anomalies in the existing Recruitment Rules. It was alleged that the old Recruitment Rules was discriminatory in nature to the existing meritorious faculty members of the Institute inasmuch as for the post of Assistant Professor teaching experience of 3 years is required as SRD, Tutor, Demonstrator, Registrar after completion of MD/MS in an Institute recognized by MCI whereas faculty members of private institute who had joined as Assistant Professors without teaching experience as SRD stake claim for the posts of Assistant Professors in the NEIGRIHMS. The anomaly becomes more glaring at the level of Associate Professor inasmuch as the existing Recruitment Rules requires 5 years teaching experience as Assistant Professor to become eligible for holding the post of Associate Professor and the Assistant Professors who are appointed on the basis of their 3 years teaching experience as Assistant Professors in private institute's, on completion of 2 years of service as Assistant Professors in the NEIGRIHMS stakes claim for the post of Associate Professor thereby putting candidates from premier institute's such as AIIMS, PGIMER at a much disadvantageous position, who besides 3 years of SRD teaching experience have to render 5 years of service as Assistant Professors to become eligible for holding the post of Associate Professor. The old Recruitment Rules of the Institute also did not give weightage to research experience as is considered in AIIMS/PGI, which has been highlighted as an unfortunate state of affair; the NEIGRIHMS being set up as a Postgraduate Research Institute in lineage with the AIIMS and PGIMER. Therefore to remove these deficiencies and also to attract faculty members from premier Institute's such as AIIMS and PGI and promote research work it was requested to amend the old Recruitment Rules in tune with the Recruitment Rules of AIIMS and PGI.

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Guwahati Bench
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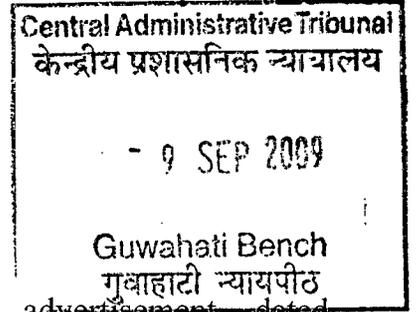
A copy of the communication dated 19.02.2008 is annexed as Annexure – 6.

4.13 That your applicants state that acceding to the abovementioned requests from the Director, NEIGRIHMS towards amending the existing Recruitment Rules, the Governing Council which is the apex policy making body of the Institute incorporated as one of the issue in its meeting held on 22.09.2008 at Agenda Item No. 6, the matter pertaining to the amendment of the old Recruitment Rules. After detailed discussion, the Council approved the amendment of the existing Recruitment Rules at par with the Recruitment Rules for the faculty members of the AIIMS, New Delhi and PGIMER, Chandigarh.

An extract of the minutes of the Governing Council meeting held on 22.09.2008 is annexed as Annexure – 7.

4.14 That the applicants state that in the meantime the Director, NEIGRIHMS who has all along advocated for amendment of the erstwhile Recruitment Rules for filling up the faculty posts in the Institute, had to the utter shock and surprise of the applicants issued an advertisement just two days prior to the amendment of the old Recruitment Rules i.e., on 20.09.2008 inviting applications amongst others, for filling up of the posts of Professor in the Department of Medicine and Radiotherapy on the basis of the qualifications prescribed in the old Recruitment Rules that was already proposed as of then to be scrapped. The old Recruitment Rules requires 4 (four) years teaching experience as Associate Professor to make an incumbent eligible for staking claim for the post of Professor whereas the newly amended Recruitment Rules requires 14 (fourteen) years cumulative teaching and/or research experience in a recognized Institution in the subject of specialty after obtaining the qualifying degree of MD/MS or 12 (twelve) years after obtaining the degree of M.Ch/D.M or qualification recognized as equivalent thereto. Both the applicants are qualified for applying for the post of Professor in the subjects of their specialty in terms of the provisions of the Recruitment Rules brought into operation in the Institute w.e.f 22.09.2008.





A copy of the advertisement dated 20.09.2008 is annexed as Annexure – 8.

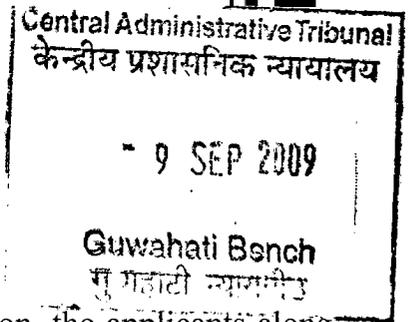
4.15 That the applicants state that they have gathered from reliable sources the reason behind issuing the advertisement dated 20.09.2008 on the basis of the qualifications prescribed by the erstwhile Recruitment Rules is that the higher ups in the Institution is in favour of appointing their blue eyed persons against the advertised posts and in the process wants to narrow down the ambit of competition amongst the candidates by preventing incumbents who are otherwise eligible and highly qualified for applying against the advertised posts in terms of the amended Recruitment Rules.

✓ 4.16 That the applicants state that the affinity of the authorities of the NEIGRIHMS towards their blue eyed persons would be evident by mere appreciation of the fact that on number of previous occasions when the authorities failed to attract qualified candidates for the various faculty posts, they had appointed number of candidates in blatant violation of the provisions of the erstwhile Recruitment Rules by relaxing the qualifications prescribed to an impermissible extent.

A chart showing the relaxation extended to the persons of choice by the NEIGRIHMS authorities is annexed as Annexure – 9.

4.17 That the applicants state that keeping in view the fact that the erstwhile Recruitment Rules was scrapped and a new set of amended Recruitment Rules was adopted by the Governing Council on 22.09.2008, the applicants who had applied for the posts of Professor in Medicine and Radiotherapy were hopeful and confident enough that their applications would be screened in terms of the qualifications prescribed by the newly adopted Recruitment Rules, but that was not the case and on 12.02.2009 the authorities in the NEIGRHIMS had disqualified them for selection against the post of Professor in the subjects of their specialty on the basis of the qualifications prescribed by the erstwhile Recruitment Rules, which is no longer in existence.

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Immediately on becoming aware of their disqualification, the applicants along with another similarly placed incumbent jointly preferred a representation dated 25.02.2009 before the Secretary, Department of Health and Family Welfare highlighting their grievances and prayed for screening their applications in light of the newly adopted Recruitment Rules. Subsequently the applicants also preferred representations dated 17.08.2009 and 28.08.2009 respectively before the Director, NEIGRIHMS highlighting the above aspect of the matter and they were verbally assured by the said authority that their grievances would be considered positively, but of late the respondent authorities are proceeding with the selection process initiated vide the advertisement dated 20.09.2008 depriving the applicants of their due and legitimate claims for consideration of the cases for appointment against the posts of Professor in the respective departments. As such the applicants have come under the protective hands of Your Lordships' by way of this Original Application for redressal of their genuine and bonafide grievance(s).

Copies of the representation dated 25.02.09, 17.08.09 and 28.08.09 is annexed as **Annexure – 10, 11 & 12 respectively.**

4.18 That your applicants state that the Director, NEIGRIHMS after through discussion and consideration of the matter in its entirety had come to the conclusion that the erstwhile Recruitment Rules of the Institute was defective, fallacious and lacking in several aspects and had himself recommended for amendment of the said Rules in tune with the Recruitment Rules of the AIIMS and PGIMER so as to enable filling up of the posts sanctioned in the Phase – I and more particularly in the Phase – II in terms of the amended Rules. Consequently the amendment of the said Rules was in the offing when two days prior to the said contemplated action of amendment of the Rules, the impugned advertisement dated 20.09.2008 was issued inviting applications for the various faculty posts mentioned therein on the basis of the qualification prescribed by the erstwhile Recruitment Rules. Such an action on the part of the authorities of the NEIGRIHMS is arbitrary, illegal and wholly unjustified in the facts and circumstances of the case rendering the same liable for interference by this Hon'ble Tribunal.

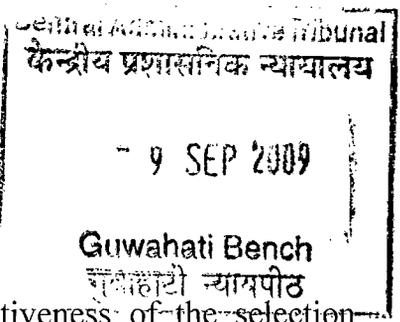
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4.19 That your applicants state that when the matter regarding the amendment of the Recruitment Rules figured as one of the agendas in the Governing Council meeting held on 22.09.2008, which fact was known to the authorities of the NEIGRIHMS, it was incumbent on the part of the said authorities not to issue any advertisement for filling up the faculty posts of the Institute on the basis of the qualifications prescribed by the erstwhile Recruitment Rules till the meeting of the Governing Council was over and the unusual haste in issuing the advertisement dated 20.09.2008 smacks malice on the face of it and interference is called upon from this Hon'ble Tribunal towards setting aside and quashing of the same.

4.20 That your applicants state that authorities of the NEIGRIHMS had themselves held the erstwhile Recruitment Rules to be not feasible for implementation; the provisions of which being against the principle of competitive selection, which procedure is envisioned for an Institute of eminence such as the NEIGRIHMS. Given the above aspect of the matter, the criteria of qualification being prescribed in the advertisement dated 20.09.2008 in accordance with the erstwhile Recruitment Rules in not a welcome gesture for the aspiring candidates seeking appointment in the Institute more so, when the amended Recruitment Rules was in the offing and in fact, which had materialized just two days after i.e., on 22.09.2008. The authorities of the Institute, given the facts and circumstances existing in the matter, ought to have proceeded at that time to issue a corrigendum to the advertisement dated 20.09.2008, declaring the selection in pursuance to the said advertisement would be held in terms of the Recruitment Rules in force w.e.f 22.09.2008. This also was the assurance held out to the applicants from time to time, but the same was never implemented.

4.21 That the applicants state that the NEIGRIHMS is one of the premier Institute of the country being in the lineage of the AIIMS and PGIMER and every aspect regarding the Institute is required to be of the highest order including the faculty members appointed in service, which is the case with all such Institute's of repute. The qualification prescribed in the advertisement dated 20.09.2008 is obsolete and followed by institutes of lesser

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repute and has the effect of reducing the competitiveness of the selection process by narrowing down the ambit of qualifying candidates, which does not auger well for the repute of the Institution and this is precisely the reason why the authorities had on numerous previous occasions requested for amendment of the erstwhile Recruitment Rules. The contemplated amendment having materialized, the authorities should have restrained from proceeding with the advertisement dated 20.09.2008 any further or in the alternative should have re-prescribed the qualifications in the advertisement dated 20.09.2008 in tune with the amendments in the Recruitment Rules.

4.22 That the applicants state that the qualifications prescribed by the new Recruitment Rules, if applied for selecting candidates for appointment against the faculty posts in NEIGRIHMS, no any injustice would be caused to any of the candidates who have already been screened by the concerned authorities to be eligible for appearing in the selection process initiated vide the advertisement dated 22.09.2008, but will definitely increase the competitiveness of the selection process inasmuch as it will widen the ambit of eligible and highly qualified candidates thereby will enable the authorities concerned to select the very best in circuit for appointment against the advertised post, which the Institute has been craving since it inception albeit without any positive response. The NEIGRIHMS being an Institute in lineage of the AIIMS and PIGMER is expected to crave for the best in every aspect of its matters and selection of faculty members is no exception.

4.23 That the applicants state that the erstwhile Recruitment Rules on which basis the advertisement dated 20.09.2008 was issued having already been scrapped and that too just after expiry of two days from the date of issue of the said advertisement, there is no any justification in proceeding with the recruitment process initiated in terms of the said Rules. The only behind the back justification seems to be the favour that is supposed to be conferred upon the blue eyed boys of the higher ups in the Institute by reducing the competitiveness of the selection process by narrowing down the ambit of the highly qualified candidates such as the applicants.

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4.24 That the applicants state that the impugned advertisement is also discriminatory in that it gives undue weightage to the services rendered in private institute's where as services rendered in premier institute's of the country such as AIIMS, PGIMER are not given the same weightage which is against the principles of "Equality before Law" and "Equal Protection of Law" as enshrined in the Constitution of India.

✓ 4.25 That the applicants state that it is a fit case wherein Your Lordships' would be pleased to pass an interim direction as has been prayed for failing which, the applicants stands to suffer irreparable loss and injury.

✓ 4.26 That in the event Your Lordships' is pleased to pass an interim direction as has been prayed for, the balance of convenience would be maintained in favour of the applicants inasmuch as the selection of candidates pursuant to the advertisement dated 20.09.2008 is yet to commence for the posts against which the applicants are seeking consideration of the cases for selection and appointment.

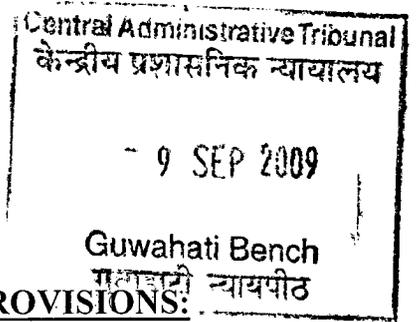
→ 4.27 That the applicants state that inaction and the wanton attitude of the NEIGRIHMS authorities have violated the principles of Natural Justice, Administrative Fair Play and the set of Rules established by law and the action towards not extending to the applicants their just and legitimate claim have infringed upon the mandate of Articles 14, 16(1), 39(a) & 309 of the Constitution of India.

4.28 That the applicants state that they have no other appropriate, equally efficacious alternative remedy available to them and the remedy sought for herein when granted would be just, adequate, proper and effective.

4.29 That the applicants demanded justice, but the same was denied to them.

4.30 That this application has been filed bonafide for securing the ends of justice.

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5. **GROUND FOR RELIEF WITH LEGAL PROVISIONS:**

5.1 For that the action on the part of the respondent authorities in issuing the advertisement dated 20.09.2008 on the basis of the erstwhile Recruitment Rules and disqualifying the candidature of the applicants against the post of Professor in their respective subjects of specialty is bad in law as well as in facts.

5.2 For that the impugned action on the part of the respondent authorities in issuing the advertisement dated 20.09.2008 on the basis of the erstwhile Rules which is no longer in existence is highly arbitrary and illegal and liable to be set aside and quashed.

5.3 For that the action towards issuing the advertisement dated 20.09.2008 for filling up the faculty posts in the NEIGRIHMS on the basis of the qualifications prescribed by the old Rules is against the principles of justice, equity and good conscience.

5.4 For that the erstwhile Recruitment Rules having been considered to be defective and not feasible for implementation by office of the Director itself, the impugned action towards totally ignoring the provisions of the new amended Rules towards prescribing the qualifications for selection and appointment of candidates against the posts in question is wholly unjustified, uncalled for and unsustainable in the eye of law.

5.5 For that NEIGRIHMS administration has not followed the cardinal principles of "Equality Before Law" and "Equal Protection of the Law" and thereby invited discrimination amongst employees and infringed the Constitutional mandate guaranteed under Article 14 and 16.

5.6 For that the Director, NEIGRIHMS having himself requested the higher authorities for the approving the draft amendment Rules towards permitting him to fill up the faculty posts on that basis, there was no justification on his part in issuing the advertisement dated 22.09.2008 basing on the qualification prescribed by the old Rules.

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5.7 For that the Director and the authorities of the NEIGRIHMS being aware of the fact that the issue of amendment of the existing Rules was being taken up by the Governing Council on 22.09.2008 i.e., just two days after the date of issue of the advertisement dated 20.09.2008, it was uncalled for on the their part in showing undue haste in issuing the advertisement dated 20.09.2008 in a hush hush manner.

5.8 For that only behind the back justification towards issuing the advertisement dated 20.09.2008 seems to be the favour that is supposed to be conferred upon the blue eyed boys of the higher ups in the Institute by reducing the competitiveness of the selection process by narrowing down the ambit of the highly qualified candidates such as the applicants.

5.9 For that the Director, NEIGRIHMS after through discussion and consideration of the matter in its entirety had come to the conclusion that the erstwhile Recruitment Rules of the Institute was defective, fallacious and lacking in several aspects and had himself recommended for amendment of the said Rules in tune with the Recruitment Rules of the AIIMS and PGIMER. As such the advertisement dated 20.09.2008 issued by the said authority on the basis of the qualifications prescribed by the erstwhile Rules is unsustainable in the eye of law.

5.10 For that the qualifications prescribed by the new Recruitment Rules, if applied for selecting candidates for appointment against the faculty posts in NEIGRIHMS, no any injustice would be caused to any of the candidates who have already been screened by the concerned authorities to be eligible for appearing in the selection process initiated vide the advertisement dated 22.09.2008, but will definitely increase the competitiveness of the selection process inasmuch as it will widen the ambit of eligible and highly qualified candidates thereby will enable the authorities concerned to select the very best in circuit for appointment against the advertised post, which the Institute has been craving since it inception albeit without any positive response.

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5.11 For that the qualification prescribed in the advertisement dated 20.09.2008 in accordance with the erstwhile Recruitment Rules in not a welcome gesture for the aspiring candidates seeking appointment in the Institute more so, when the amended Recruitment Rules was in the offing and in fact, which had materialized just two days after i.e., on 22.09.2008.

5.12 For that the NEIGRIHMS is one of the premier Institute of the country being in the lineage of the AIIMS and PGIMER and every aspect regarding the Institute is required to be of the highest order including the faculty members appointed in service, which is the case with all such Institute's of repute. The qualification prescribed in the advertisement dated 20.09.2008 is obsolete and followed by institutes of lesser repute and has the effect of reducing the competitiveness of the selection process by narrowing down the ambit of qualifying candidates, which does not auger well for the repute of the Institution and this is precisely the reason why the authorities had on numerous previous occasions requested for amendment of the erstwhile Recruitment Rules.

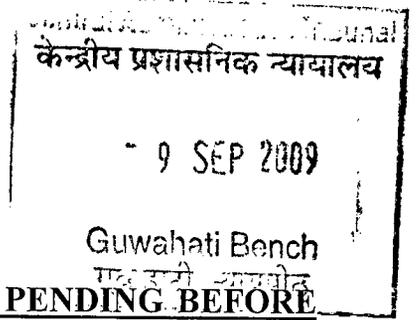
5.13 For that the NEIGRIHMS being an Institute in lineage of the AIIMS and PIGMER is expected to crave for the very best in every aspect of its matters and selection of faculty members is no exception.

5.14 For that in any view of the matter the impugned action on the part of the respondent authorities in issuing the advertisement dated 20.09.2008 on the basis of the erstwhile Recruitment Rules and disqualifying the candidature of the applicants against the post of Professor in their respective subjects of specialty is unsustainable in the eye of law.

6. DETAILS OF THE REMDIES EXHAUSTED:

The applicants declare that they have no other alternative and efficacious remedy except by way of filing this application. As such they are seeking urgent and immediate relief.

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7. **MATTERS NOT PREVIOUSLY FILED OR PENDING BEFORE ANY OTHER COURT:**

The applicants further declare that no other application, writ petition or suit in respect of the subject matter of the instant application is filed before any other court, authority or any other Bench of the Hon'ble Tribunal nor any such application, writ petition or suit is pending before any of them.

8. **RELIEF SOUGHT FOR:**

Under the facts and circumstances stated above, the applicants pray that this application be admitted, records be called for and notice be issued to the respondents to show cause as to why the relief's sought for in this application should not be granted and upon hearing the parties and on perusal of the records, be pleased to grant the following relief's.

8.1 To set aside and quash the advertisement dated 20.09.2008 ~~inviting applications~~ on the basis of the qualifications prescribed by the erstwhile Recruitment Rules towards filling up the various faculty posts in the NEIGRIHMS.

8.2 Alternatively, to direct the respondent authorities to screen the applications of the applicants for the post of Professor in the subjects of their specialty in terms of the qualifications prescribed by the amended Recruitment Rules.

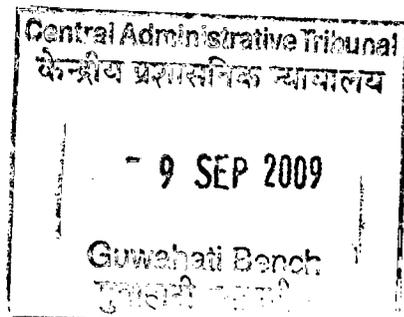
8.3 Cost of the application.

8.4 Any other relief/ relief's that the applicant in the facts and circumstances of the case would be entitled to.

9. **INTERIM ORDER PRAYED FOR:**

In this facts and circumstances of the case the applicants prays for the following interim directions;

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(i) To stay the process of selection initiated vide the advertisement dated 20.09.08 for selection of candidates for the faculty posts in the NEIGRIHMS.

(ii) Alternatively, to direct the respondent authorities to allow the applicants to appear in the selection process in pursuance to the advertisement dated 20.09.2008 and to consider their cases for such purpose by reckoning the provisions of the Recruitment Rules brought into force w.e.f 22.09.2008.

10.

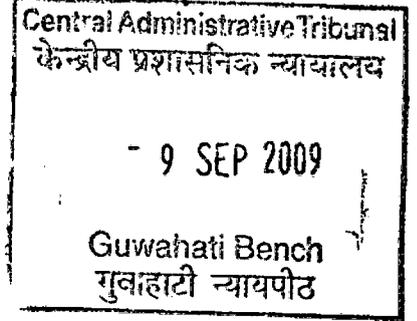
11. PARTICULARS OF THE I.P.O:

- i) I.P.O No. : 3907389848
ii) Date : 22-8-2009
iii) Payable at : Guwahati

12. LIST OF ENCLOSURES:

As stated in the index.

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--VERIFICATION--

I, Dr. Mihir Kumar Goswami, aged about 47 years, son of Dr. Braja Mohan Goswami, resident of Quarter No. B-1C, NEIGRIHMS, NEIGRIHMS Campus, Mawdiangdiang, Shillong – 793018, Meghalaya, do hereby solemnly affirm and verify that I am the applicant No. 2 in this instant Original Application and I have been duly authorised to swear this verification on behalf of the applicant no. 1 and as such I am competent to swear this affidavit conversant with the facts and circumstances of the case, the statements made in paragraph 1 to 3, 4 (1, 2, 5, 6, 7, 8, 15, 18 to 30), & 5 to 12 _____ are true to my knowledge; those made in paragraphs 4 (3, 4, 9, 10, 11, 12, 13, 14, 16 & 17) _____ are true to my information derived from the records and the rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts of the case.

And I sign this verification on this the 08th day of September, 2009, at Guwahati.

Mihir Kumar Goswami
8/09/09

DEPONENT

SCHEDULE I

RECRUITMENT RULES AND QUALIFICATION FOR THE FACULTY
AND OTHER POSTS AT THE A.I.I.M.S., NEW DELHI

Sl. No Name of the Post Qualifications

1. Professor (Medical)
Pay Scale Rs. 5000-200-
7300+NPA

Essential :

1. A medical qualification included in the I or II schedule or part II of the third Schedule to the Indian Medical Council Act of 1956 (persons possessing Qualifications included in part II or third schedule should also fulfill the conditions specified in section 13(3) or the Act).
2. A postgraduate qualification e.g., MD/MS or a recognized qualification equivalent thereto in the respective discipline / subject.
3. M.Ch. for surgical super specialties and D.M. for Medical Super specialties or qualification recognized equivalent thereto.

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EXPERIENCE :

Fourteen years teaching and / or research experience in a recognized Institution in the subject of specialty after obtaining the qualifying degree of MD/MS or twelve years after obtaining M.Ch. D.M. or qualification recognized equivalent thereto.

2. Professor (Non-Medical)
Pay Scale Rs. 5900-200-
7300

Essential :

1. Postgraduate qualification e.g. Masters Degree in the discipline / allied subject.
2. A Doctorate Degree of a recognized University.

EXPERIENCE :

Fourteen years teaching and / or research experience in the discipline / subject concerned after obtaining the Doctorate Degree.

3. Additional Professor (Medical)
Pay Scale Rs. 5100-150-
6300+NPA

Essential :

1 to 3 same as for Professor (Medical)

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Advocate

EXPERIENCE :

Ten years teaching and / or research experience in a recognized institution in the subject of specialty after obtaining the qualifying degree of MD/MS or Eight Years after obtaining M.Ch / D.M. or qualification recognized equivalent thereto.

4. Additional Professor Essential :
(Non-Medical)
Pay Scale Rs. 5100-150-6300

1 & 2 same as for Professor (Non-Medical)

EXPERIENCE :

Ten years teaching and / or research experience in the discipline / subject concerned after obtaining the Doctorate Degree.

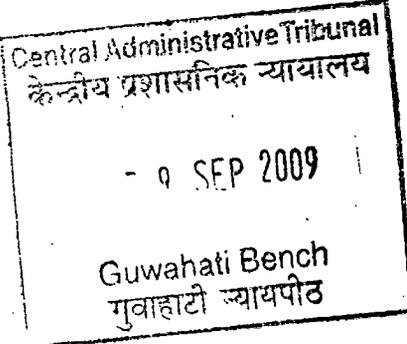
5. Associate Professor Essential :
(Medical)
Pay Scale Rs. 4100-125-4850-150-5300+NPA

1 & 2 same as for Professor (Medical)

3. M.Ch. for surgical super specialties and D.M. for Medical super specialties or qualification recognized equivalent thereto.

EXPERIENCE :

Six years teaching and/or research experience in a recognized Institution in the subject of specialty after obtaining the qualifying degree of MD/MS or four years after obtaining M.Ch. / D.M. or qualification recognized equivalent thereto.



6. Associate Professor Essential :
(Non-Medical)
Pay Scale Rs. 4100-125-4850-150-5300

1 & 2 same as for Professor (Non-Medical)

EXPERIENCE :

Six years teaching and / or research experience in the discipline / subject concerned after obtaining the Doctorate Degree.

7. Assistant Professor Essential :
(Medical)
Pay Scale Rs. 3500-125-4500 + NPA

1 to 3 same as for Professor (Medical)

EXPERIENCE : (For general disciplines) :

Three years teaching and / or research experience in recognized Institution in the subject of specialty after obtaining the qualifying degree of MD/MS or qualification equivalent thereto.

EXPERIENCE : (For Super speciality disciplines) :

One year teaching and / or research experience after obtaining the M.Ch / D.M. or qualification recognized equivalent thereto.

8. Assistant Professor (Non Essential :
Medical)
Pay Scale Rs. 3500-125-
4500 + NPA

1 & 2 same as for Professor (Non-Medical)

EXPERIENCE :

Three years teaching and / or research experience in the discipline / subject concerned after obtaining the Doctorate Degree.

9. Medical Supdt.
Pay Scale Rs.
7300+NPA

Essential :

1. A medical qualification included in Schedule I & II or Part II of the third schedule of the Indian Medical Council Act of 1950 (candidates possessing the qualifications included in Part II of the third schedule should also fulfill the conditions specified in section 13(2) of the act).

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Recruitment Rule Of the North eastern Indira Gandhi Regional Institute of Health & Medical Sciences, Shillong:

Sl. No. Name of the Post Qualifications

1. **Professor (Medical)** Essential:
1. A medical qualification included in the I or II schedule or part II of the third Schedule to the Indian Medical Council Act of 1956 (persons possessing Qualifications included in part II or third schedule should also fulfil the conditions specified in selection 13(3) or the Act.
2. A post graduate qualification e.g. MD/MS or a recognized qualification equivalent thereto in the respective discipline/subject.
3. MCh for surgical super specialties and DM for Medical Super specialties or qualification recognized equivalent thereto.

EXPERIENCE:

Four years of teaching experience as Associate Professor

2. **Professor (Non-Medical):**

Essential:

1. Post graduate qualification eg. Masters Degree in the discipline/allied subject.
2. A doctorate Degree of a recognized University

EXPERIENCE:

Four years as Associate Professor

3. **Associate Professor (Medical)** Essential: Specialty Subject

1-3 same as professor

EXPERIENCE: Five years of teaching experience as Assistant Professor/Lecturer/demonstrator

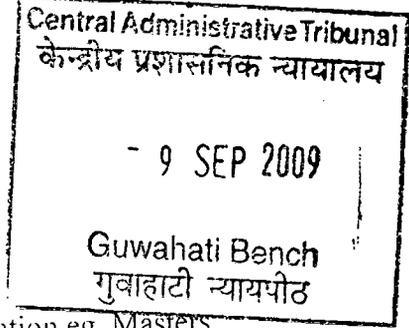
Superspeciality Subject

EXPERIENCE: Two years of experience as Assistant Professor/Lecturer

4. **Assistant Professor**

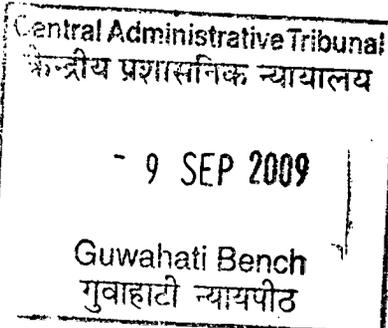
1-3 same as Professor

EXPERIENCE: (Speciality Subject): 3 years of Teaching Experience
(Superspeciality Subject): Nil



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Advocate



REPRESENTATION FOR RATIONALIZING RECRUITMENT RULES
PERTAINING TO CAREER PROMOTION AND DIRECT RECRUITMENT FOR
THE FACULTY MEMBERS IN NEIGRIHMS ON PRIORITY BASIS

30 June 2005

To

The Director
NEIGRIHMS, Shillong

Sir;

We wish to bring the following few facts to your kind notice that;

There is a basic and major discrepancy in the Recruitment Rule (RR) regarding the direct recruitment and career promotion. For super-specialty departments the period from Assistant Professor to be promoted to Associate Professor is Two years. While in Specialty departments the period for the same promotion is Five years. This kind of gross discrepancy creates a lot of discomfort in the faculty members belonging to specialty departments. Nowhere in India is this kind of RR being followed at present. We quote some of the examples from reputed premier medical institutions in India for your information:

1. All India Institute of Medical Sciences, New Delhi
 - a. Asst. Prof. to Associate Prof.- 4 Years. Relaxation is given to the Super Specialty Departments only at entry level i.e. Asst. Prof., not beyond.
 - b. The teaching/research experience is counted post MD/MS/MCh/DM
2. PGIMER, Chandigarh:
Same as AIIMS, New Delhi
3. JIPMER, Pondicherry
Governed as per DGHS Rules and Regulations
4. DGHS administered Medical Colleges
Two Years time bound promotion, irrespective of vacancy

From the above facts and figures, it is very clear that not a single premier Medical Institutions in India are following such a clumsy RR like that of ours and they have rationalized according to their advantage. The most important fact remains that all of the

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above institutions are fully recognized by MCI. Rather ^{prepare} some of them guidelines for other state medical colleges.

At this point of time we must reiterate the importance of basic science and specialty departments in a teaching hospital. Since the last four years the interim hospital facility, NEIGRIHMS had been run by two Associate Professors from Specialty Departments. At present other faculty members have joined in six Specialty Departments like Radiodiagnosis, Pathology, Radiotherapy, Microbiology, Pediatrics, Anaesthesia and General Surgery. Now that the faculty members in some of the specialty departments have joined for more than 10 months, it is high time to finalize the RR before they complete two years of their service.

Sir, at this crucial juncture, we request your good office to take notice of the anomaly and rationalize it as soon as possible on priority basis. Our expectations are very high on you Sir and we hope that you will take our future prospects into consideration while discussing this matter with authorities. Considering the hardship we are facing at present to build up a national level institution level in a geographically hostile terrain like Shillong, we feel that the DGHS promotional scheme will benefit us the most.

Looking forward to hear from you very soon on this matter,

Sincerely yours

Dr. V. Raphael
 Associate Prof.
 Dept. of Pathology
 On long leave
 Dr. D.K. Parida
 Asst. Prof.
 Dept. of Radiation Oncology

Dr. C. Daniala
 Associate Prof.
 Dept. of Radio-diagnosis
 Dr. A. Handique
 Asst. Prof.
 Dept. of Radio-Diagnosis

Dr. U.K. Badani
 Associate Prof.
 Dept. of Anaes-thesiology.
 Dr. R. Dass
 Asst. Prof
 Dept. of Pediatrics

Dr. A.C. Phulkam
 Associate Prof.
 Dept. of Microbiology.
 Dr. Md. Yumkis
 Asst. Prof
 Dept. of Anaes-thesiology

Dr. Y. Khonglah
 Asst. Prof.
 Dept. of Pathology
 Dr. Noor Topno
 Associate Prof.
 Dept. of Gen Surgery

Handwritten initials and marks: A, RA, and various scribbles.

NEIGRIHMS

Western Indira Gandhi Regional Institute of Health & Medical Sciences, Shillong.
(An Autonomous Institute, Ministry of Health and Family Welfare, Government of India)
Director's Block, GPO Post Bag No. 92, Mawdiangdiang, Shillong 793018 Meghalaya

Email : neigri@sancharnet.in
neigri_shg@dataone.in
Phone : (0364) 2536538 (Tele-Fax)
2004681 (O)

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Dated the 7th April 2006

To
Shri K Raamamoorthy
Joint Secretary
Ministry of Health and Family Welfare
Government of India, Nirman Bhavan
New Delhi 110 011

Sub: Modification/Amendment of Recruitment Rules (R.R) at NEIGRIHMS

Sir,

Reference to the above, the Faculty of the Institute had an extensive discussion along with Director and also prominent academician like Chairman of National Board of Examination, Vice Chancellor of North Eastern Hill University and other dignitaries who have visited the Institute regarding the poor response and turnout of candidates against repeated advertisements for the Faculty positions at NEIGRIHMS during the last two years.

It was opined during these discussions that the Recruitment Rules (RR) for Faculty position at NEIGRIHMS does not have any definitive promotional scheme and also there are areas of ambiguity in terms of qualification, experience etc. for different category of posts.

In view of this, we have compared the RR from premier institutes of the Country like AIIMS, PGIMER, SGPGI and a draft revised RR for NEIGRIHMS is made.

We are also incorporating various incentives for Faculty in the Revised RR for NEIGRIHMS, so that such Faculty will be willing to serve in this remote area of the

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Country and bring the status of the NEIGRIHMS to the level of AIIMS, PGIMER etc.
not only in Patient Care but also for education and Research in Medical field.

We hope such improvement in RR will attract committed and duly qualified
experience Faculty of high Academic Standing.

The matter may be put up to competent authority for perusal and approval please.

Thanking you,

Yours faithfully,

(Dr. R K Sarma)
Director

MS ANNEXURE- 5

North Eastern Indira Gandhi

(An Autonomous Institute)

Director's Block, GPO Post Bag No. 92, Mawdiangdiang, Shillong-793018 Meghalaya

Health & Medical Sciences, Shillong.

Family Welfare, Government of India)

Email : neigri@sancharnet.in
neigri_shg@dataone.in
Phone : (0364) 2536538 (Tele-Fax)
2004681 (O)

No NEIGR-E-II/15/2004/205

Dated 27th July 2007

To

Shri K.Raamamoorthy
Joint Secretary (NE)
Ministry of Health and Family Welfare
Nirman Bhawan,
New Delhi-110011.

Central Administrative Tribunal
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Sub: - Recruitment Rules for the Faculty Posts- Approval thereof.

Ref: - No. NEIGR-E.II/18/2002/Pt.II dated 29th June 2007.

Sir,

With reference to the subject above I am to inform you that the Institute vide letter dated 7.4.2006 (copy enclosed) has submitted a draft Recruitment Rules for the Faculty posts and requested for amendment of the present Recruitment Rules-2003 for Faculty posts of the Institute at par with the AIIMS, New Delhi for approval of the competent authority.

In this regard it may be stated that the Ministry has created 79 nos of faculty posts in 2003 for the phase-I of the project & the Recruitment Rules - 2003 for these posts was prepared based on the qualification and experience as per the MCI norms which was approved by the President Governing Council and duly ratified by the 7th Governing Council held on 10th February 2004. Based on the above approved Recruitment Rules the recruitment of the Faculty posts in respect of the departments in the Phase -I have been made and is still continuing.

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✓ During the recent visit of the Hon'ble Union Health Minister to Shillong along with Parliamentary Committee attached to the Ministry of Health & Family Welfare on 27.6.2007 it was decided by the Hon'ble Minister that MBBS Courses should be started in the Institute from the next academic session. However most of the Recruitment Rules for the faculty positions for the U.G. Courses like Anatomy, Physiology etc have not been finalized by the Ministry. As such recruitment of Faculty posts in the Phase - II could not be taken up as the Recruitment Rules for 16 departments could not be finalized.

In this connection it may be mentioned that as response to faculty posts advertised by the Institute is not encouraging, an amendment of Recruitment Rules on the lines of AIIMS would attract qualified faculty to NEIGRIHMS and also encourage faculty from other National Institutes to come on deputation. The Institute is awaiting the approval of the President Governing Council for amendment of Recruitment Rules 2003 for Faculty posts at par with AIIMS Recruitment Rules, for all the Faculty posts sanctioned in Phase-I and approval of draft Recruitment Rules for faculty post in Phase-II.

The Institute vide its letter No. NEIGR-E-II/18/2002/Pt dated 29th June 2007 (copy enclosed) requested the competent authority to allow recruitment of Faculty for the departments of Anatomy, Physiology, Ophthalmology, ENT, Biochemistry, Pharmacology, Social & Preventive Medicine etc as per qualification and experience of the present approved Recruitment Rules (RR-2003 for Faculty Posts). Till date there has been no response from the Ministry.

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Due to the facts stated above the Institute is not in a position to advertise the vacant faculty posts created in the phase-II

In view of the above it is requested to kindly convey the decision of the Ministry on the matter of the Recruitment Rules of Faculty posts sanctioned in Phase -II and amendment of the existing Recruitment Rules on the lines of AIIMS.

This may kindly be treated as Urgent.

Yours faithfully

(Dr. R.K. Sarma)
Director

NEIGRIHMS

Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, Shillong.

(An Autonomous Institute, Ministry of Health and Family Welfare, Government of India)

Director's Block, GPO Post Bag No. 92, Mawdiangdiang, Shillong 793018 Meghalaya

Email : neigri@sancharnet.in
neigri_shg@dataone.in

Phone : (0364) 2536538 (Tele-Fax)
2004681 (O)

No. NEIGR-E.II/15/2004/

Dated the 19th February 2008

To

The Joint Secretary (KR)
Ministry of Health & Family Welfare
Govt. of India
Nirman Bhavan, New Delhi - 11001

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Sub.: Modification/amendment of Recruitment Rules of Faculty posts at NEIGRIHMS.

Sir,

With reference to the above mentioned subject, I am to inform you the Institute has submitted a proposal for modification/amendment of the Recruitment Rules of the faculty posts in the Institute vide letter no. Nil dated 7th April 2006. However till date approval of the same has not yet been received. The amendment of the existing Recruitment Rules is urgently required because of certain ambiguities of which a few are illustrated as follows.

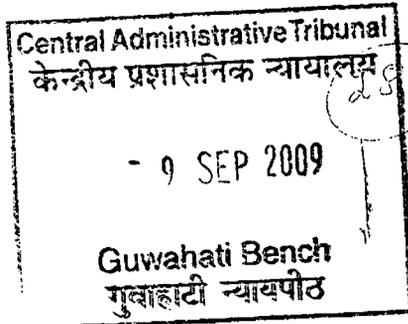
For example as per the existing Recruitment Rules for the post of Assistant Professor teaching experience of 3 years is required as SRD, Tutor, Demonstrator, Registrar after completion of MD/MS in an Institute recognised by MCI. However in most of the Private Institutes, faculty joined directly as Assistant Professor after completion of MD/MS without any teaching experience as SRD. These faculty after completion of 3 years experience as Assistant Professor in Private Medical Institutes recognised by MCI apply for posts of Assistant Professor in NEIGRIHMS. The Screening Committee qualified these candidates for the interview by taking their three years experience as Assistant Professor in lieu of SRD.

This anomaly becomes more glaring at the level of Associate Professor. As per the existing Recruitment Rules for the post of Associate Professor 5 years teaching experience as Assistant Professor is required from recognized Medical Colleges.

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Advocate



The candidates from Private Institutes who are appointed as Assistant Professor on the basis of their 3 years experience as Assistant Professor in Private Medical Institutes stake a claim for post of Associate Professor after completion of only 2 years as Assistant Professor in NEIGRIHMS (total five years experience as Assistant Professor minus SRD). This has puts candidates from eminent Institutes on a disadvantage because besides 3 years as SRD they have to complete 5 years as Assistant Professor before they are eligible as Associate Professor. The Recruitment Rules therefore clearly favour candidates from Private Institutes and not those from eminent National Institutes. The Recruitment Rules of the Institute also recognised three years experience in a recognised medical college as Resident/Registrar/Demonstrator/Tutor to be eligible for the post of Assistant Professor. This has created confusion as in most medical Institute Registrar/Demonstrator/Tutor are also appointed after MBBS and not necessarily after MD/MS.

The present Recruitment Rules of the Institute also does not give weightage to research experience as in AIIMS / PGI in recruitment. This is most unfortunate as NEIGRIHMS is being set up as P.G. research Institute.

In order to attract faculty from eminent Institutes and also to promote research it is kindly requested that Recruitment Rules of the Faculty be modified / amendment as per Recruitment Rules of AIIMS and PGI. A comparative statement of Recruitment Rules of NEIGRIHMS with that of AIIMS and PGI is enclosed for kind perusal.

Thanking you.

Yours faithfully

D.A.J. Sawkmie

(D.A.J. Sawkmie)

Deputy Director (Admn)

ofc

ANNEXURE-7

By FAO

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**U 12012/70/2007 NE
Ministry of Health and Family Welfare
(North East Division)**

**Nirman Bhavan
New Delhi 110105**

Date 11th Sep '08

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To,

**The Director
NEIGRIHMS
Shillong 793018
Meghalaya
Form No. 342-A N.D.**

Sub: **10th Meeting of the Governing Council of NEIGRIHMS, reg;-**
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Sir,

I am directed to inform you that the Hon'ble Minister for Health and Family Welfare has desired that the 10th meeting of the Governing Council of NEIGRIHMS be held on 22nd Sep '08 at 5.00 p.m. in Nirman Bhavan, New Delhi.

It is requested that necessary action in this respect may kindly be taken by the Director, NEIGRIHMS, immediately.

Yours faithfully

(G.R. Khetriyal)

Under Secretary to the Government of India
TeleFax: 23061203

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11/9/08

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Advocate

Minutes of the adjourned meeting of the 10th Meeting of the Governing Council of North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences (NEIGRIHMS), Shillong held in the Conference Room, Nirman Bhavan, New Delhi at 5.30 pm on 22nd September 2008.

Members Present:

1. Dr. Anbumani Ramadoss
Hon'ble Union Minister of Health & Family Welfare, Government of India. : President
2. Dr. A. Pariong
Hon'ble Health Minister, Govt. of Meghalaya : Member
3. Shri Kuzholuzo
Hon'ble Health Minister, Govt. of Nagaland : Member
4. Shri Naresh Dayal
Secretary (Health & FW), Govt. of India : Member
5. Dr. R. K. Srivastava
DGHS, Government of India : Member
6. Shri Naved Masood
Addl. Secretary & FA
Ministry of Health & Family Welfare : Member
7. Shri R. S. Dhaliwal
S.C.E., ICMR : Member
8. Smt. Jayashree Mukherjee
Joint Secretary, DONER : Member
9. Mrs. R. M. Bathew : Member
10. Shri H. W. T. Syiem : Member
11. Dr. C. Silvera : Member
12. Dr. R. N. Salhan
Director, NEIGRIHMS : Member Secretary

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Reply from Secy cell &
Red Dept.

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Advocate

Special Invitees:

1 Shri B.K.Prasad
Joint Secretary
Ministry of Health & Family Welfare

2 Shri V.C.Sharma
CMD, HSCC.

Other officials:

1 Shri D.A.J.Sawkinie
Deputy Director (Admn)
NEIGRIHMS

2 Shri D.T.Umdor
Executive Engineer (Civil)
NEIGRIHMS

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Member absent:

1. Hon'ble Minister of Health, Government of Manipur, Imphal
2. Hon'ble Minister of Health, Government of Sikkim
3. Secretary Education, Ministry of Human Resource & Development
4. Secretary, Planning Commission or representative
5. Secretary, North Eastern Council, Shillong
6. Vice Chancellor, North Eastern Hill University, Shillong
7. Commissioner & Secretary Health, Government of Assam
8. Commissioner & Secretary Health, Government of Arunachal Pradesh
9. Commissioner & Secretary Health, Government of Tripura
10. Commissioner & Secretary Health, Government of Mizoram
11. Director, All India Institute of Medical Sciences
12. Director, PGIMER, Chandigarh
13. President, Medical Council of India
14. Shri Naban Rebia, Hon'ble Member of Rajya Sabha
15. Shri Kirip Chaliaha, Hon'ble Member of Lok Sabha
16. Dr.Hem Kumar Tewari

(1) Vice Chancellor, NEHU & (2) Director, PGIMER had expressed their inability to attend because of their preoccupation.

[Signature]

The Hon'ble Union Minister of Health & Family Welfare and President, Governing Council, North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, Shillong Dr. Anbumani Ramadoss welcomed the members of the Governing Council.

The President, Governing Council informed the members that though the Governing Council meeting was being held after more than a year, he was personally monitoring the progress of NEIGRIHMS, through regular review meetings with the officers of the Ministry and NEIGRIHMS. He also informed the members of the Council, that he had visited NEIGRIHMS along with the Parliamentary Committee on Health in June 2007. During the visit of the Parliamentary Committee, it was decided that NEIGRIHMS would start MBBS programme in the Academic Year 2008-2009. The Hon'ble President observed that he was happy that NEIGRIHMS has started the MBBS programme from the current academic year 2008-09 with an annual intake of 50 students as per schedule. The Hon'ble President informed the member that this was the first MBBS College in the State of Meghalaya in the North East. The annual intake in the College, would be increased to 100 in the next year. The members were told that the Ministry of Health & Family Welfare was extending all support, for establishing NEIGRIHMS as an Institute of Excellence.

After a brief introduction by the Director, NEIGRIHMS, the Agenda items were taken up one by one.

Agenda Item No.1:

Confirmation of the minutes of the 9th Governing Council Meeting held on 17.04.2007.

No comments was received on the Minutes of the 9th Governing Council held on 17.04.2007, which were circulated to all members vide Institute's letter No.NEIGR-3/89/Pt.II dated 5th July 2007. Therefore the Minutes were taken as confirmed by the Council.

Agenda Item No.2:

Review of Action Taken on the minutes of the 9th Governing Council meeting held on 17.04.2007.

The Member Secretary gave details on the Action Taken on the minutes of the 9th Governing Council held on 17th April 2007. As regards the

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establishment of Dharamshala in NEIGRIHMS, the President, Governing Council directed that the Dharamshala should have dormitories accommodation for 100 patients/relatives with common kitchens and toilets besides some single rooms as in Safdarjung Hospital, New Delhi. With these observations, the action taken report was noted by the Council.

Agenda Item No.3:

Consideration of the present status of NEIGRIHMS.

The Member Secretary briefed the Council on the present Status of the Institute. The members were informed that the Institute had started U.G.Courses, patients both OPD. & In-door had increased and that sophisticated equipment in the department of Cardiology, CTVS, Urology, Orthopaedics etc. had been commissioned.

The following observations and suggestion were made by the Hon'ble members of the Council.

The Hon'ble Health Minister, Government of Meghalaya informed that he had learnt that there was a shortage of the Anaesthetists in the Institute. This had hampered the functioning of the surgical departments which were allotted only one day a week for Surgeries. He also pointed out to the need of having Cardiac Anaesthetists for the CTVS department. He further informed that he had also learnt that NEIGRIHMS did not have a sanctioned post of Perfusionist. The Member Secretary explained that the Institute has appointed one Perfusionist on contract basis since 14.07.2008. The Member Secretary also informed the Council that NEIGRIHMS is having only 6 sanctioned posts of faculty in the department of Anaesthesiology. At present one Professor, one Associate Professor and two Assistant Professor of Anaesthesiology have been appointed. Offer of appointment for the post of Associate Professor, Anaesthesiology was issued to Dr.B.K.Biswas but he has yet to join the post. The DGHS, Government of India observed that around 20 Anaesthesiologist are required for 14 OTs to be commissioned in NEIGRIHMS. The Secretary Health & Family Welfare observed that since NEIGRIHMS would be having 14 OTs a proposal should be sent by the Institute to the Ministry, for sanctioning more posts for the Department of Anaesthesiology.

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The Members of the Council concurred with these observations and were of the opinion that more faculty posts in the department of Anaesthesiology be sanctioned.

Member Secretary further informed the Council that B.Sc Nursing College in NEIGRIHMS has started in July 2006. The Nursing College was the first Graduate level Technical Institute, in the State of Meghalaya. The third batch with an intake of 50 students per batch, has been enrolled in the Nursing College. The Council was also informed that the EFC proposal for constructing additional Nursing Hostel and Building, to increase the annual intake from 50 to 100, had been submitted to the Ministry for approval.

The Member Secretary also informed the Council, that the EFC for the MBBS College building hostels etc., with capacity for annual intake of 100, is in the final stage of preparation by HSCC, and would be submitted to the Ministry shortly.

The President, Governing Council directed, that we should aim that in future the annual intake for MBBS should increase to 150-200.

The President, Governing Council enquired from the CMD of HSCC about the average room size in the proposed MBBS hostel. The CMD of HSCC informed that the size of each room as per design was 8' X 10'. The members felt that the room size would not be adequate, considering that each room had to accommodate a bed, ward robe, tables and chairs. HSCC was asked to modify the design of the rooms and made them larger.

The President, Governing Council also enquired the starting of the Radiotherapy department in the Institute. This was essential since Cancer was the widely prevalent in the North East. The Member Secretary informed the Council that the EFC proposal for establishment of RCC, had been submitted to the Ministry for approval. The members were of the opinion, that the RCC and Radiotherapy department should be started in the shortest possible time. As an interim measure a Cancer Ward should be started within the existing infrastructure with the latest radiotherapy equipments.

The Member Secretary informed the members that the Institute did not have a sanctioned post of Medical Superintendent. The President, Governing Council expressed the view that a full time Medical Superintendent was necessary for such a huge hospital. He directed the Member Secretary to sent a proposal to the Ministry for creation of the post of Medical Superintendent.

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Excellence when National Institute like AIIMS, PGIMER & JIPMER were not notified.

The President, Governing Council enquired from the JS (M.E) about the procedure adopted in RIMS, Imphal for allotment of MBBS seats to various North East States. It was explained that as RIMS, Imphal was a Regional Institute, the respective State Governments nominated/selected their own students for studying MBBS in RIMS.

The President, Governing Council was of the opinion that if it was conducted in a transparent manner, as per guideline issued by Ministry of Health & Family Welfare, then admission could be left to respective State Governments, by adopting an admission procedure at par with that followed for the common N.E. open seats.

After detailed deliberations, the Council decided that in respect of these 4 States i.e. Meghalaya, Mizoram, Nagaland and Arunachal Pradesh the respective State Governments may select their own students. The selection procedure should be purely on merit. NEIGRIHMS/Ministry of Health & Family Welfare, Government of India, would guide the States in the admission process, to ensure uniformity in the method of selection. There would however be a common admission test, conducted by NEIGRIHMS to fill up the seats under N.E. open Quota.

Agenda Item No.5:
To consider amendment of the Memorandum of Association of the Institute.

The Council approved for the amendment of the Memorandum of Association of the Institute in respect of the objects to include a Sub-clause as 'To provide Under-Graduate Medical Education & Training' as reflected in the Agenda.

Agenda Item No.6:
To consider amendment of the Recruitment Rules of Faculty posts at par with Recruitment Rules of Faculty posts of AIIMS & PGIMER.

The Member Secretary informed the Council that in the existing Recruitment Rules for Faculty posts, there were grey areas in matters like qualification, experience etc. for different category of posts. The present recruitment rules also did not give weightage to research. He also informed

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The Council, that in order to attract faculty from eminent Institute and also to promote research, the existing Recruitment Rules for Faculty posts may be modified, amendment as per the Recruitment Rules of faculty posts of AIIMS, New Delhi and PGIMER, Chandigarh.

After discussion, the Council approved the amendment of the Recruitment Rules of faculty posts in NEIGRIHMS at par the Recruitment Rules of faculty posts of AIIMS, New Delhi and PGIMER, Chandigarh. The Council also decided that a detailed proposal for creation of additional posts required for starting MBBS may be submitted to the Ministry.

Agenda Item No.7:

To consider amendment of Clause 18(b) of the Bye Laws of the Institute relating to enhancement of the age of superannuation of the teaching faculty for 62 years to 65 years.

The Member Secretary informed the Council, that as per Clause 18 (b) of the Bye-Laws of the Institute the age of superannuation of the teaching faculty is 62 years. The Ministry of Health & Family Welfare has conveyed the approval of the Cabinet to enhance the age of superannuation of teaching specialists of Medical Institutions under Ministry of Health & Family Welfare including NEIGRIHMS from 62 years to 65 years. The Ministry has requested the Institute, to take necessary action for implementation of the Cabinet's decision. The Council noted the Cabinet decision, and approved the amendment of Clause 18(b) of the Institute's Bye-laws raising the superannuation of teaching faculty from 62 years to 65 years.

Agenda Item No.8:

Implementation of Assessment Promotion Scheme for the faculty members.

The Member Secretary informed the Council that in the last Governing Council meeting held on 17th April 2007 the Council was of the opinion, that as an incentive to faculty members, Assessment Promotion Scheme applicable to the faculty of AIIMS, New Delhi and PGIMER, Chandigarh be also made applicable to the faculty of NEIGRIHMS. The Ministry vide letter dated 14.3.2008 has also informed that the Ministry of Finance had approved the implementation of Assessment Promotion Scheme as applicable in AIIMS & PGIMER for the faculty at NEIGRIHMS.

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✓ Member Secretary also informed the Council that implementation of Assessment Promotion Scheme at par with AIIMS & PGIMER would do away with the stagnation of faculty member in one post for several years.

→ The Council approved the implementation of Assessment Promotion Scheme for the faculty at NEIGRIHMS as applicable to AIIMS & PGIMER, subject to a condition that faculty promoted under Assessment Promotion Scheme could not be HOD of their respective departments. The Council also approved creation of the post of Additional Professor in the pay scale of Rs.16400-450-20900/- as in AIIMS & PGIMER. Shri Naved Masood, Addl. Secretary & F.A. informed the Council that the proposals would have been examined by the Internal Finance Division of the Ministry before implementation.

✓ wdp

Agenda Item No.9:

Consideration for payment of Non-Practising Allowance (NPA) from the date of joining of the faculty members of the Institute.

The Member Secretary informed the Council that 11 (eleven) faculty posts were sanctioned vide Ministry letter dated 17.02.1997 with 25% NPA but faculty posts sanctioned subsequently numbering 130 vide Ministry's letters dated 12.05.2003 and 08.09.2005 were sanctioned without NPA. Faculty who joined the posts sanctioned vide letter dated 17.2.97 were drawing NPA from the date of joining, while faculty who simultaneously joined against the posts sanctioned vide letters dated 12.05.2003 and 08.09.2005, were allowed to draw NPA from 2.8.2006 only. This had created anomalies in the pay drawn. The faculty have submitted representation to the Ministry, expressing resentment against this discrimination. They had also moved CAT against there anomalies. The Member Secretary also informed the Council, that the amount of unpaid NPA from the date of joining till 1.8.2006 is amounting to Rs.10,69,595 in respect of 8 (eight) faculty only.

The Council approved payment of unpaid NPA to 8 (eight) faculty members of NEIGRIHMS with effect from the date of their joining till 1.8.2006.

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Agenda Item No.10:

Ratification of the grant of Non Practising Allowance (NPA) to the faculty members of the Institute.

The Council ratified payment of NPA to the faculty members w.e.f. 2.8.2006 as specified in the Ministry's letter No.U.12012/27/02--ME-III/NE dated 5.9.2006.

Agenda Item No.11:

To consider delegation of Power to the Director - Addition of one Sub Clause to Clause 23(a) of the Bye Laws of the Institute.

The Member Secretary informed the Council, that the Institute was facing hardship in recruiting senior faculty member e.g. Professor and Associate Professor in various departments. As there was no response to the advertisements for faculty posts, the Institute was proposing filling up these vacant posts with retired faculty members on contract for a fixed term, till the age of 65 years at a consolidated pay. At present as per the existing Bye-laws, the power for appointment of the faculty on contract lying with President, Governing Council. However it was experienced that obtaining the approval of the competent authority, for recruitment of faculty was taking time. As a result most candidates selected preferred to join private Institute at higher remuneration. The Member Secretary sought the approval of the Council, to delegate the power by amendment of the Clause No.23 of the Bye-laws of the Institute to the Director of the Institute for appointment of retired senior faculty members on contract basis, for a fixed term till the age of 65 years, while the efforts to recruit regular faculty continues.

After discussion, the Council approved the proposal for appointment of retired senior faculty members on contract basis, for a fixed term till the age of 65 years at a consolidated pay as follows:-

1. Professor - Rs.1,00,000/- per month
2. Associate Professor - Rs.80,000/- per month

Shri Naved Masood, Addl. Secretary & FA stated that the proposal for payment of consolidated pay to faculty on contract, would have to be examined by the Internal Finance Division, before implementation.

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The Council also approved the amendment of Clause 23 of the Institute's Bye laws as reflected in the agenda.

Agenda Item No.12:

To consider selection of Faculty Members in absentia.

The Member Secretary informed the Council that at present the Institute was recruiting candidates for faculty posts on the basis of personal interviews conducted by the Standing Selection Committee of the Institute. In some cases, the candidates with exceptional academic qualification, could not appear for the interviews, on the date due to various factors like illness, attending conferences/training abroad etc. In view of the poor response of eligible candidates to interviews conducted by the Institute, the Member Secretary sought the approval of the Council for assessing such candidates, without their personal appearance before the Selection Committee. They would be assessed on their basis of their bio-data, academic qualification, publication etc. However the President, Governing Council was of the opinion that since such a procedure of selection was not adopted in AIIMS, PGIMER & JIPMER, it would be premature to implement it at NEIGRIHMS at present.

After deliberation, the Council did not approve the proposal.

Agenda Item No.13:

Collaboration with NIMHANS and M/s Frontier Lifeline to run super speciality departments in NEIGRIHMS.

The Member Secretary informed the Council that the Union Minister of Health & Family Welfare Dr. Anbumani Ramadoss had held a Review Meeting on 23.10.2007 to operationalize Super Speciality departments in NEIGRIHMS. The Ministry had also invited the heads of eminent Institutions, in both the Public and Private Sector for the meeting. This meeting was attended by Dr.K.M.Chcrian, Chairman and CEO International Centre in Cardio Thoracic and Vascular disease. Dr.S.Bhattacharjee, Director, CMC Vellore, Dr.Nagarajan, Director NIMHANS Bangalore, Dr.Talwar, Director PGIMER, Chandigarh and Senior Officials of the Health Ministry and NEIGRIHMS. The Minister had requested heads of the various Institutes to suggest ways and means to operationalize Super Speciality Services in the Institute. He informed that there were two

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proposals, one from M/s Frontier Lifeline and the other from NIMHANS Bangalore. The proposals were as follows:

Dr. Nagarajan, Director of NIMHANS, Bangalore had proposed that sanctioned posts of NEIGRIHMS in the department of Neurosurgery and Neurology which were vacant be transferred permanently to NIMHANS, Bangalore. NIMHANS would recruit faculty against these vacant posts. These faculty would be then posted in NEIGRIHMS on rotation of 6 to 8 months. The Faculty from NIMHANS, apart from providing super speciality services would also start Post Graduate Programmes in their respective departments.

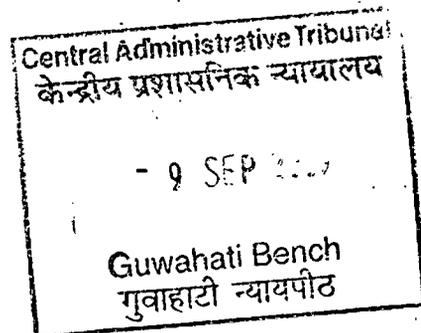
With regard to the transfer of sanctioned posts in the department of Neurology and Neuro Surgery to NIMHANS, the majority of the members were of the opinion that such a proposal may not be feasible at present. The Institute should explore other means to operationalize these departments by offering additional incentive to faculty, wide publicity etc.

The member were also informed that the Institute had signed a Memorandum of Agreement dated 22.2.2008 with M/s Frontier Lifeline to operationalize the departments of Cardiology and CTVS. As per this agreement M/s FLL would provide following services.

- a. extend technical and manpower support to operationalise the departments of Cardiology, Cardio Thoracic & Vascular Surgery of NEIGRIHMS.
- b. impart training and required exposure in the realm of Cardiology, Cardio Thoracic & Vascular Surgery to the concerned manpower of NEIGRIHMS so that they could extend their healing mission to the people of North East Region, and
- c. provide their expert advise in setting up required infrastructure for operationalising the departments of Cardiology, Cardio Thoracic & Vascular Surgery of NEIGRIHMS.

NEIGRIHMS as per the agreement would pay salaries to consultant and staff of M/s FLL as, per equivalent pay scale of NEIGRIHMS. NEIGRIHMS would pay for the Travelling Cost of the consultants/staff from Chennai to Shillong & vice versa besides also bearing for fooding and lodging cost. A Homo Graft Valve would be set up at NEIGRIHMS, with expertise from

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M/s FLL. NEIGRIHMS would bear the cost 25% of the valves would be used by M/s FLL.

The Council after deliberation was of the view that since the department of Cardiology and CTVS in NEIGRIHMS had already started functioning, the Agreement may be put on hold for the time being.

Agenda Item No.14:

Consideration of the recommendations/decisions of the 19th, 20th, 21st, 22nd, 23rd, 24th, 25th & 26th SFC of the Institute.

The Council approved the minutes of the 19th, 20th, 21st, 22nd, 23rd, 24th, 25th & 26th meeting of the Standing Finance Committee and also approved the action taken by the Institute to implement the decision ex-post facto.

Agenda Item No.15:

Consideration of the Annual report 2004-2005 & 2005-2006 and Audited statement for the year 2004-2005 & 2005-2006 of NEIGRIHMS

The Council adopted the Annual Report and Audited Statement of Accounts of the Institute for the year 2004-2005 and 2005-2006.

Agenda Item No.16:

Consideration of the Revised Budget Estimate for 2005-2006 & 2006-2007 and Budget Estimate for 2006-2007 & 2008.

The Council approved ex-post facto the Revised Budget Estimate for 2005-06 and 2006-07 and Budget Estimates for the year 2006-07 and 2007-08 of the Institute.

Agenda Item No.17:

Consideration of the recommendations/decisions of the Planning Committee of the Institute in its 6th Planning Committee meeting.

The Council approved the minutes of the 6th Planning Committee held on 28th November 2005 and also approved the action taken by the Institute to implement the decision ex-post facto.

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Agenda Item No.18:

To consider approval for the collection of User Charges.

The Council approved the proposal, to start collecting hospital charges and investigation charges from the patient as per the rate of PGIMER, Chandigarh or AIIMS, New Delhi which ever is lowest. The collection of user charges would be made after the hospital is formally inaugurated.

Agenda Item No.19:

Proposal for Guest House in new Delhi

The Council approved for hiring of a 2 to 3 bed room flat in New Delhi for use by the Institute as a Guest House. It was suggested, by the Secretary Health & Family Welfare, that the Guest House should be located at Dwarka as it was close to the Airport.

Agenda Item No.20:

Implementation of Government's decision on the recommendations of the 6th Central Pay Commission revision of Pay and Allowances.

The Council was of the unanimous view, that the recommendation of the Sixth Pay Commission as approved by the Government, be made applicable to the employees of NEIGRIHMS. However the Revised Pay Scale would be implemented subject to issue of relevant orders by the Ministry of Finance extending the benefits of the Sixth Pay Commission, to Autonomous Organisation under Government of India.

Agenda Item No.21:

Ratification for extension of service (on contract) of Dr. Biona Kharrubon, Professor, Radiodiagnosis

The Council approved ex-post facto the appointment of Dr.B.Kharrubon on contract basis as Professor, department of Radiodiagnosis till 17.4.2009.

Agenda Item No.22:

Ratification of the reconstitution of the Standing Finance Committee

The Council ratified the action taken by the President, Governing Council to increase the membership of the Standing Finance Committee of NEIGRIHMS from the existing 8 to 10 members by inclusion two additional

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members (1) Secretary (Health & Family Welfare) and (2) Additional Secretary & Project Director, National Rural Health Mission (NRHM).

The Council also approved, ex-post facto the nomination of Secretary (Health & Family Welfare), as the Chairman of the Standing Finance Committee in place of Director General of Health Services.

Agenda Item No.23:

Ratification of the appointment of Dr. R.K. Sarma as Acting Director, professor and regular Director, NEIGRIHMS.

The Council approved ex-post facto the appointment of Dr.R.K.Sarma, Professor & Head of the Department of Hospital Administration, AIIMS, New Delhi as the Director of the Institute for the period from 6.12.2005 to 29.2.2008 (attending the age of 62 years).

Agenda Item No.24:

Ratification of extension of the term of Mrs. R.M. Bathew as Member of Governing Council of NEIGRIHMS.

The Council ratified the re-nomination of Mrs.R.M.Bathew as member to the Governing Council as well as to the Chairpersonship of the Standing Selection Committee for Group A posts in the Institute for a period of 5 years w.e.f. 7th November 2005.

Agenda Item No.25:

Ratification for nomination of Additional Co-Chairpersons to the Standing Selection Committee of NEIGRIHMS

The Council ratified the nomination of the Vice Chancellor (NEHU) and/or Secretary (NEC), to act as Co-chairperson of the Standing Selection Committee constituted for recruitment of faculty members and other Group A posts in the Institute, during the period of non-availability of the Chairman Standing Selection Committee.

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(12)

Agenda Item No.26:

Ratification of the appointment of faculty Members, other Group A and Group B posts.

The Council ratified the appointment of faculty members, other Group A and Group B posts in the Institute as reflected in the agenda.

Agenda Item No.27:

Ratification of the raising of upper age limit of the Group C & D posts.

The Council ratified the raising of upper age limit to 30 years for group C & D posts in the Institute.

Agenda Item No.28:

Ratification of the constitution of the Internal Committee for Purchase of medical equipments.

The Council ratified the constitution of two Internal Committee for procurement of Medical Equipment in the Institute.

Agenda Item No.29; (Supplementary)

Conversion of Posts

The Council decided that the proposal for conversion of posts as reflected in the agenda may be placed before the Standing Finance Committee of the Institute.

The meeting ended with a vote of thanks from and to the Chair.

R.N.S.
(Dr. R.N.Sallhan)
Member Secretary
Governing Council
NEIGRIHMS, Shillong

A.R.
(Dr. Anbumani Ramadoss)
Hon'ble Union Minister of
Health & Family Welfare
&
Chairman,
Governing Council,
NEIGRIHMS, Shillong

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North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, Shillong,
Mawdiangdiang-793018

ADVERTISEMENT NO.NEIGR-E.II/19/2004/Pl.V

Applications are invited on prescribed form by the Director, North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, from Indian Citizen for the following posts mentioned below.

Departments	No. of Posts		
	Professor	Associate Prof.	Assistant Prof.
Cardiology	1	-	1*
Gastroenterology	1	1	2
CTVS	1	-	1
G.I.Surgery	1	1	-
Neuro Surgery	1	1	1
Neurology	1	1	1
Nephrology	1	1	2
Urology	1*	-	2
Clinical Pharmacology	1	1	2
Microbiology	-	1	-
Pathology	-	1*	1*
Radiotherapy	1	1	1
Orthopaedics & Trauma	1	1*	-
Obstetrics & Gynaecology	-	1*	-
General Surgery	-	1	-
General Medicine	1*	-	1
Forensic Medicine	-	1	-
Paediatrics	1	-	2
Anaesthesiology	-	-	1
Anatomy	-	1	2
Biochemistry	1	1	-
Pharmacology	1	1	-
Community Medicine	1	1	1
ENT	1	1	-
Ophthalmology	1	1	-
Physiology	-	1	-
Medical Oncology	1	1	2
Clinical Haematology	1	1	2
Endocrinology & Metabolic Diseases	1	1	2
Surgical Oncology	1	1	2
Dermatology & STD	1	1	2
Tropical & Infectious Diseases	1	1	2
Rheumatology	1	1	2
Hospital Administration	1	1	2
	26	28	37

	Deputy Medical Superintendent	1
Nursing College	Professor cum Vice Principal	1
Nursing College	Lecturer	4 (1 for OBC)

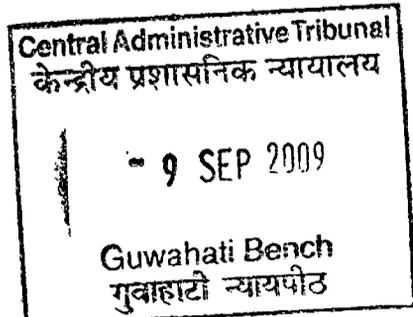
* Candidates who had applied earlier against advertisement No.NEIGR-15/2004 dated 17.10.2007 need not apply again.

Pay Scale:

Professor: 18400-22400/- + NPA, Associate Professor: 14300-18300/- + NPA, Assistant Professor: 11625-15200/- + NPA (Non Medical Faculty - No NPA), Dy. Medical Superintendent - 10000-15200/-, Professor cum Vice Principal - 12000-16500/- and Lecturer - 8000-13500/- (Plus other allowances as admissible under Govt. of India Rules)

Certified to be true Copy


Advocate



General Information:

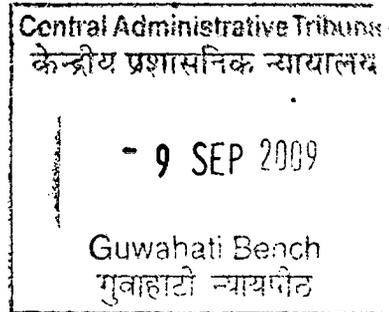
- 1 Applications of retired faculty members having requisite qualification & experience and who have not crossed 65 years of age may also be considered for appointment on contact basis and their pay & perks are negotiable with in Govt. Rules.
- 2 **Accommodations will be provided to the Faculty members appointed at the Institute.**
- 3 A C second-class train fare to and fro to the place of interview will be paid on production of tickets to the candidates who are called for interview.
- 4 Incomplete application will not be considered.
- 5 Institute reserves the right to reject or accept any candidature without assigning any reason thereof.
- 6 The number of posts may be increased/decreased depending upon the requirement at the time of interview.
- 7 The effective date upto which the requisite experience must be completed is 30th June 2009.

For further details regarding essential qualification, experience, age etc. and to download the prescribed application form, kindly visit the Institute's Web site <http://neigrihms.nic.in>.

Complete application may be send in the prescribed application form to the Director, North Eastern
Indira Gandhi Regional Institute of Health & Medical Science, Shillong, Mawdiangdiang-793 018

Last date of receipt of application is 31st October 2008.

Director, NEIGRIHMS



an tourist on a
the Delhi-Harid-
highway.

GREEN COAL



A participant at the Save Nature Rally 2008 in Jaipur on Friday. (PTI)

Pistol haul

■ Muzaffarnagar (PTI): An illegal arms factory was unearthed on Friday in a police raid in Muzaffarnagar. Fifteen illegally made pistols and a pistol-making machine were seized. Two persons have been arrested.

Nine-year jail

■ Muzaffarnagar (PTI): A fast-track court on Friday sentenced a man to nine years in jail for human trafficking and attempted rape. Jitendra Kumar had allegedly bought a 16-year-old girl from her stepmother for Rs 25,000 and then tried to assault her. The step-mother was acquitted for lack of evidence.

BAPU EFFECT



A sand sculpture of Mahatma Gandhi in Bikaner. (PTI)

Buried coins

■ Dharmadeti (PTI):

Ready to buy a car?

The Telegraph
auto market

Just call

West Bengal: 22600574, 2448 2828
North East: 0361-2766200, 0361-2665199
Jharkhand: 06576454724, 9836503676

North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences
DISEASE PREVENTION AND CONTROL DIVISION
SHILLONG - 791 015
ADVERTISEMENT NO. NEIGR-E/19/2004/PLV

Applications are invited on prescribed form by the Director, North Eastern Indira Gandhi Regional Institute of Health & Medical Sciences, from Indian Citizen for the following posts mentioned below.

Departments	No. of Posts		
	Professor	Associate Prof.	Assistant Prof.
Cardiology	1	-	1*
Gastroenterology	1	1	2
CTVS	1	-	1
G. I. Surgery	1	1	-
Neuro Surgery	1	1	1
Neurology	1	1	1
Nephrology	1	1	2
Urology	1*	-	2
Clinical Pharmacology	1	1	2
Microbiology	-	1	-
Pathology	-	1*	1*
Radiotherapy	1	1	1
Orthopaedics & Trauma	1	1*	-
Obstetrics & Gynecology	-	1*	-
General Surgery	-	1	-
General Medicine	1*	-	1
Forensic Medicine	-	1	-
Paediatrics	1	-	2
Anaesthesiology	-	-	1
Anatomy	-	1	2
Biochemistry	1	1	-
Pharmacology	1	1	-
Community Medicine	1	1	1
ENT	1	1	-
Ophthalmology	1	1	-
Physiology	-	1	-
Medical Oncology	1	1	2
Clinical Haematology	1	1	2
Endocrinology & Metabolic Diseases	1	1	2
Surgical Oncology	1	1	2
Dermatology & STD	1	1	2
Tropical & Infectious Diseases	1	1	2
Rheumatology	1	1	2
Hospital Administration	1	1	2
	26	28	37
	Deputy Medical Superintendent		1
Nursing College	Professor cum Vice Principal		1
Nursing College	Lecturer		4 (1 for OMC)

*Candidates who had applied earlier against advertisement No. NEIGR-15/2004 dated 17-10-2007 need not apply again.

Pay Scale:
Professor : 18400 - 22400- + NPA. Associate Professor : 14300 - 18300- + NPA. Assistant Professor : 11625 - 15200- + NPA (Non Medical Faculty - No NPA). Dy. Medical Superintendent : 10000 - 15200-. Professor cum Vice Principal : 12000 - 16500- and Lecturer : 8000 - 13500- (Plus other allowances as admissible under Govt. of India Rules)

General Information :-

1. Applications of retired faculty members having requisite qualification & experience and who have not crossed 65 years of age may also be considered for appointment on contract basis and their pay & perks are negotiable within Govt. Rules.
2. Accommodations will be provided to the Faculty members appointed at the Institute.
3. A.C. second-class train fare to and fro to the place of interview will be paid on production of tickets to the candidates who are called for interview.
4. Incomplete applications will not be considered.
5. Institute reserves the right to reject or accept any candidature without assigning any reason thereof.
6. The number of posts may be increased / decreased depending upon the requirement at the time of interview.
7. The effective date upto which the requisite experience must be completed is 30th June 2009.

For further details regarding essential qualification, experience, age etc. and to download the prescribed application form, kindly visit the institute's web site <http://neigrhms.nic.in>.

Complete applications may be send in the prescribed applications form to the Director, North Eastern Indira Gandhi Regional Institute of Health & Medical Science, Shillong, Mawdiangdiang - 791 015.

Last date of receipt of application is **31st October 2008.**

Sd/-
Director, NEIGRIHMS

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Advocate

Central Administrative Tribunal
केन्द्रीय प्रशासनिक न्यायालय

- 9 SEP 2009

Guwahati Bench
गुवाहाटी न्यायपीठ

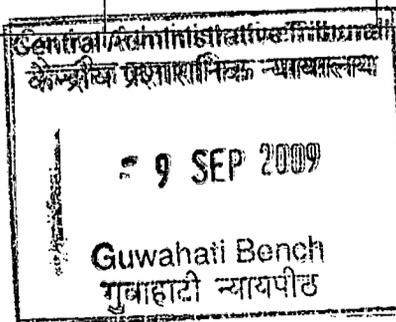
Example of Relaxations Given to various Faculty Members at different time:

Name	Experience	Post appointed	Experience required in NEIGRIHMS	Quantum of Relaxation given
Dr. C Daniala	3 yrs. Senior Residency	Associate Professor	5 yrs as Assistant Professor or 6 yrs Post MD (AIIMS, PGI, SGPGI)	5 yrs experience as Asst. Prof
Dr. Vandana Rapheal	2 yrs. 8 months as Senior Resident & 1&1/2 yrs as Asst. Prof. in Private Hospital	Associate Professor	5 yrs as Assistant Professor or 6 yrs Post MD (AIIMS, PGI, SGPGI)	3&1/2 yrs experience as Asst. Prof
Dr. Vandana Rapheal	1&1/2 yrs as Asst. Prof. in Private Hospital and 5 yrs as Associate Prof	Professor	5 yrs as Asst. Prof & 4 yrs as Assoc. Prof. or 14 yrs post MD(AIIMS, PGI, SGPGI)	3&1/2 yrs experience as Asst. Prof
Dr. A.C.Phukan	Nil (Working in ICMR)	Assoc. Professor	3 yrs of Senior Residency/Lecturer	3 yrs.
Dr. A.C.Phukan	10 yrs experience from ICMR & 2 & 1/2 yrs as Associate Prof	Professor	5 yrs as Asst. Prof., 4 yrs as Assoc. Prof. or 14 yrs post MD(AIIMS, PGI, SGPGI)	5 yrs. As Asst Prof. & 1 & 1/2 yrs. As Assoc. Prof.
Dr. K.G.Lynrah	2yrs & 4 months of Senior Residency in Gastroenterology Department, NEIGRIHMS, which did not had a Faculty Member	Assistant Professor in the Department of Medicine	3 yrs. Of Senior Residency	8 months of Senior Residency and Department of Medicine, no experience
Dr. Hussain	3 yrs. Of Senior Residency in Gastroenterology Department, NEIGRIHMS, which did not had a Faculty	Assistant Professor in the Department of Medicine	3 yrs. Of Senior Residency	Department of Medicine, no experience

Certified to be true Copy



Advocate



	Member			
Dr. Rassna Das	3 yrs. Senior Residency & 3 & ½ yrs as Asst. Prof.	Associate Prof.	5 yrs as Asst. Prof Professor or 6 yrs Post MD (AIIMS, PGI, SGPGI)	1 & ½ yrs as Asst. Prof.
Dr. A. Mishra	1 & ½ yrs. As Asst. Prof.	Associate Prof.	2 yrs. As Asst. Prof.	6 mths As Asst. Prof.
Dr. M.Saikia	1 & ½ yrs. As Asst. Prof	Associate Prof.	2 yrs. As Asst. Prof.	6 mths As Asst. Prof

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To
The Secretary
 Department of Health & FW,
 Govt. of India, Nirman Bhawan,
 New Delhi &
 Member, Governing Council, NEIGRIHMS, Shillong

25 Feb 2009

By
26/2/09
Sub; Request to direct NEIGRIHMS to implement the new Recruitment Rule at par with AIIMS & PGIMER as decided in the 10th Governing Council Meeting on 22 September 2008.

Sir,
 We the faculty members wish to bring following few facts to your kind knowledge and information that;

Back Ground:

1. The NEIGRIHMS is facing crunch of Faculty Members at present.
2. The NEIGRIHMS is following the Recruitment Rule (RR) for the selection of Faculty Members, which is deficient in many aspects, faulty and having many grey areas. It does not give any weightage to research and post MD/MS cumulative experience.
3. Exactly for this reasons, in spite of several advertisements in the past, the NEIGRIHMS could only attract 40 faculty Members till date in various departments.
4. Of late realizing these problems, the NEIGRIHMS wrote several letters to the ministry to rationalize the RR.
5. The same was also put at the Agenda Item no. 6 in the 10th Governing Council Meeting of NEIGRIHMS held at New Delhi on 22 September 2008. The Council discussed on this matter and decided that the RR should be changed to that of AIIMS and PGIMER.
6. In the mean time the NEIGRIHMS advertised again on the basis of the old existing RR just two days prior to Governing Council Meeting, i.e. on 20 September 2008.

Administrative Tribunal
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 - 9 SEP 2009
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 गुवाहाटी न्यायालय

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 26/02/09

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[Signature]
Advocate

7. Now that the Governing Council decision is there to change the RR, but the screening was done on the basis of old existing RR on 12 Feb 2009.

Effect:

Sir, we the following faculty members are trained from the best of the Institutes like AIIMS, New Delhi, MAMC, New Delhi, GMC, Guwahati etc. We are much more experienced and trained professionally than other candidates.

But because our application forms were screened on the basis of old RR, we were eliminated and made not eligible for the promotion to higher positions on the pretext that there is no separate further order from the Ministry on this matter to implement the same decision. This effect is very demoralizing.

Prayer:

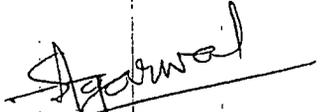
Sir, when the Governing Council in its last meeting on 22 Sept 2008 has decided to change the RR, please consider our case sympathetically and allow our applications to be considered for screening in the light of changed RR.

Expecting to hear your favourable decision soon on this matter

Sincerely yours


Dr. D.K. Parida
Asst. Professor
Department of Oncology


Dr. Mihir Goswami
Assoc. Professor
Department of Medicine


Dr. Sarat Aggarwal
Asst. Professor
Dept. of Orthopaedics



✓ CC: Director, NEIGRIHMS for information & NA

Central Administrative Tribunal
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- 9 SEP 2009
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17 Aug 2009

To
The Director
NEIGRIHMS, Shillong

**Sub: Request for consideration of my application for the post of Assoc/Professor,
Department of Radiotherapy, NEIGRIHMS**

Sir,
Most humbly I wish to bring few following facts for your information & kind
consideration that;

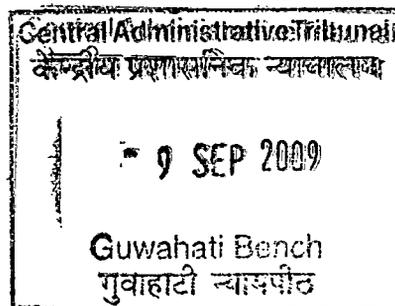
1. The Recruitment Rule (RR), NEIGRIHMS is following at present is not a rationalized one and does not treat Superspeciality & Specialty Departments at par.
2. That is the reason, the institute administration repeatedly wrote to the Ministry of Health & FW for changing the existing RR.
3. The 10th Governing Council Meeting was supposed to be held on 22 Sept 2008. NEIGRIHMS administration put (Change of RR) as an agenda item no. 6
4. But at the same time went ahead with the advertisement of faculty posts on 20 Sept 2008 with old existing RR, just two days prior to the Governing Council Meeting.
5. On 22nd Sept, the Governing Council decided to change the RR at par with AIIMS and PGIMER
6. Following the decision of the Governing Council to change the RR, the institute did not take any steps to get the new RR approved from the ministry, But went ahead with the screening of the application forms in Feb 2009.

Unfortunately my application for subsequent higher position was rejected by the screening committee. ✓

Sir, I am the first faculty member to join NEIGRIHMS in Aug 2004 after the regular recruitment process started, hence completed 5 years as Asst. Professor. As per the existing RR, I should have been screened through for the post of Assoc. Prof.

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Advocate



If you consider the new changed RR as per the decision of 10 Governing Council, I am eligible for still higher position as I am having already 14+ years of post MD experience (9+ years from AIIMS, New Delhi and 5+ years from NEIGRIHMS). For your kind information, I am enclosing my comprehensive CV.

In the past, who ever has been promoted in NEIGRIHMS have been allowed exemplary relaxation (Table enclosed for your kind information please). Here I am eligible by all standards but for some unknown reasons my application is not being considered.

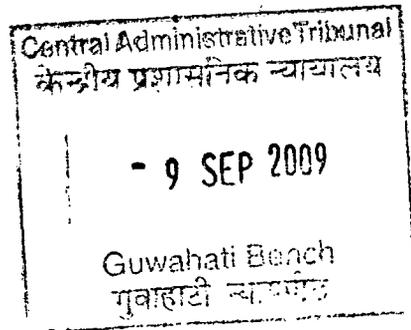
Sir, my request to your good office that, please consider my case sympathetically and consider my application for promotion to next higher position.

Thanking you

Sincerely yours


Dr. D.K. Parida
Asst. Professor
Department of Oncology

a/c
Submitted by hand to
Director, NEIGRIHMS, Guwahati



Dated Shillong, the 28th August 2009

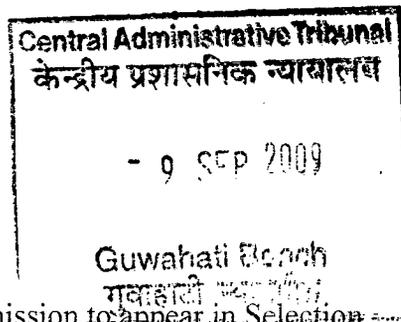
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From,

Dr. M K Goswami
Associate Professor & HOD
I/ c Department of General Medicine
NEIGRIHMS, Shillong.

To,

The Director
NEIGRIHMS, Shillong.



Sub: Representation regarding consideration for permission to appear in Selection interview for the post of Professor of Medicine, NEIGRIHMS.

Sir,

With due regards, I would like to draw your kind attention to the following facts :

- (1) That Sir, I have been working as an Associate Professor & I/c of the Department of General Medicine for more than 2 (two) years till date since 16th August 2007.
- (2) That Sir, I joined as a Resident Physician in the Department of Medicine in Gauhati Medical College Hospital in May 1990 after doing MD in Medicine in 1989 and was promoted to the rank of Assistant Professor in February 1996. During this 18 (eighteen) years of teaching experience, I was involved in preparing the curriculum for Department of Medicine for Undergraduate courses in Gauhati University.
- (3) That Sir, I was awarded the Doctorate Degree in Medical Science (Ph D) by the University of Gauhati in 1994. The topic of my thesis was "A study on the profile of hypertension in Assam."
- (4) That Sir, during the span of last few years, I have a number of publications to my credit. I have also chaired several scientific sessions in State, Zonal as well as National level conferences. Moreover in these Conferences a number of paper presentations were made by me (vide Bio data enclosed herewith).
- (5) That Sir, considering the above mentioned facts I shall remain ever grateful if you kindly allow me to appear in the Selection interview for the post of Professor of General Medicine of NEIGRIHMS.

I remain in anticipation.

Yours faithfully,

Dr. M K Goswami
Associate Professor & HOD
I/ c Department of General Medicine
NEIGRIHMS Shillong

n/c
28/8/09

Certified to be true Copy

Advocate

IN THE GAUHATI HIGH COURT
 (THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA,
 MANIPUR AND TRIPURA)
SHILLONG BENCH
 CIVIL APPELLATE SIDE

Appeal from W.P.C. No 1184 of 2010

Civil Rule

Dr. Subal Prasad Das

Appellant
Petitioner

Union of India Versus Dr. Subal Prasad Das

Respondent
Opposite-Party



For Appellant Mr. K. S. Kanyal, Sr. Advocate
 For Petitioner Mr. H. Chakrabarti
Mr. R. Sanyal, Adv.
 For Respondent
 For Opposite-Party Mr. R. Deb Nath
G.C.

Noting by Office or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signatures
1	2	3	4
<div data-bbox="215 1564 622 1882" style="border: 1px solid black; padding: 5px;"> <p>Central Administrative Tribunal केन्द्रीय प्रशासनिक न्यायालय</p> <p align="center">10 FEB 2010</p> <p>Guwahati Bench গুৱাহাটী বেঞ্চ</p> </div>			

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BEFORE
THE HON'BLE MR JUSTICE T VAIPHEI
THE HON'BLE MR JUSTICE ASOK POTSANGBAM.

WP(C) NO.11(SH)2010

9.2.2010

We have heard Mr KS Kynjing, the learned senior counsel assisted by Mr H Kharmih, the learned counsel for the petitioners and Mr R Debnath, the learned CGC appearing for the respondent Nos.1,2 and 3.

In view of the nature of the grievances projected by the learned senior counsel for the petitioners in the course of motion hearing, we do not find it necessary to issue formal notices to the respondents and decide to dispose of this writ petition at the motion stage.

The principal grievance of the petitioners appears to be that the application for interim order has not been disposed of by the Tribunal till now despite the show cause filed by the petitioners as early as November 2009. It is also stated by Mr R Debnath, the learned CGC appearing for the respondent Nos.1,2 and 3 that the application filed by the Institute for vacation of the interim order on 16.10.2009 has also not been disposed of. That apart, the learned senior counsel for the petitioners has also challenged the locus standi of the respondent Nos. 4 and 5 in challenging the recruitment process of the advertisement dated 17.10.2007 as well as the Notification dated 20.9.2008. He also raises many other contentions touching upon the merit of the case.

We have given our anxious consideration to the various contentions raised by the learned senior counsel for the petitioners, which are also supported by Mr R Debnath, the learned CGC. We do not comment on the merit of the case at this stage. However, considering the fact that the case is of urgent nature, instead of disposing of the writ petition on merit, we feel that the ends of justice will be served if the Tribunal hears and disposes of the application for interim order as well as the application for



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vacation of the interim order within one week from today.

A copy of this order be furnished to the learned counsel for the petitioners as well as the learned CGC in the course of the day.

Writ petition stands disposed of.

s/ A Potsangbam
JUDGE

s/ T. Yaip Pui
JUDGE

mdk



TRUE COPY
[Signature]
Court Master
Gauhati High Court
Shillong Bench.