

**Central Administrative Tribunal
Principal Bench**

OA No.897/2018

New Delhi, this the 30th day of July, 2018

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)

Dr. Garima Singh,
Group 'A'
w/o Dr. Sukhdeep Singh
aged about 40 years,
R/o Flat No.307, Type IV,
Faculty Staff Quarters,
Lady Hardinge Medical College Campus,
Bangla Sahib Road,
New Delhi 110 001. Applicant.

(By Advocate, Shri Nilansh Gaur)

Versus

1. Union of India
Through its Secretary
Ministry of Health & Family Welfare
Nirman Bhawan,
New Delhi.
2. Union Public Service Commission (UPSC)
Through its Secretary
Dholpur House, Shahjahan Road,
New Delhi 110 069.
3. Dr. Sailendra Narayan Parida
S/o Shri Vijay Kumar Parida
(To be served through
Respondent No.1). Respondents.

(By Advocates, Shri Gyanendra Singh for respondent No.1,
Shri R. V. Sinha with Shri Amit Sinha and Shri Vaibhav
Pratap Singh for respondent No.2 and Shri Sanjeeb
Panigrahi for Shri Abhishek Tripathi for respondent No.3.)

: O R D E R (ORAL) :**Justice L. Narasimha Reddy, Chairman:**

Two important sectors for the Government, i.e., health and education, have been lagging behind in several respects despite the best efforts made by the Government. One of the reasons is that whenever attempt is made to select and appoint meritorious persons against the vacancies, some of the candidates who appear to be having expertise in law than in their respective fields, create one hurdle or the other at every possible stage. The result is that the selections are dragged on for years, and sometimes, decades. The ultimate sufferer is the public at large.

2. The importance of Radiologists in any hospital hardly needs an emphasis. There existed as many as ten vacancies of Grade-III, Assistant Professor in CHS. Advertisement No.15/2018 was issued with a view to fill those vacancies, as well as other vacancies in the department. 31.08.2017 was prescribed as the closing date for submission of online recruitment applications, and the next day, i.e., 01.09.2017, as the last date for printing completely submitted online applications.

3. The applicant, respondent No.3 and several others submitted applications for the post of Radiotherapist. Qualifications spelt for the post are that a candidate should hold (a) an MBBS Degree; (b) Post Graduation Degree in Radiotherapy; and (c) three years of experience after MD, or five years' experience after diploma in Radiotherapy.

4. The UPSC conducted selections and published a list of selected candidates in February, 2018. The name of the respondent No.3 appeared at Sl. No.1 of the recommended list of 10 candidates, and the name of the applicant figured at Sl. No.2 in the reserved list of 5 candidates. This OA is filed challenging the selection of respondent No.3.

5. The principal ground urged by the applicant is that the respondents No.3 does not hold the prescribed qualification. To be precise, it is stated that respondent No.3 has completed three years' experience on 01.09.2017, whereas the last date for reckoning that period is 31.08.2017. It is also pleaded that respondent No.3 was appointed earlier in the Medical Department of Orissa, and he was removed from that service.

6. The UPSC filed the counter affidavit, taking exception to the very institution of the OA. It is stated that a candidate can be said to be aggrieved, if only the order of

appointment is issued contrary to recruitment rules, and mere selection of candidates does not give rise to any right to them, including those who are selected. It is also stated that on the basis of the information furnished in the online application, and on finding that the respondent No.3 fulfils the qualification, his name was recommended. The respondent No.3 also filed his counter affidavit on the same lines.

7. On the face of it, the OA is not maintainable at this stage. Except that the UPSC recommended the names of certain candidates after interview, the appointing authority has not applied its mind, much less issued orders of appointment. The cause of action can be said to have arisen, if only any candidate is appointed contrary to the recruitment rules. On this short ground, we dismiss the OA, without expressing any view on merits. There shall be no order as to costs.

(Aradhana Johri)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/pj/