

(2006) 11 JH CK 0003

Jharkhand High Court

Case No: Writ Petition (S) No. 4960 of 2003

Dr. Arun Kumar Verma

APPELLANT

Vs

The State of Jharkhand,
Secretary, Health, Medical
Education and Family Welfare
Department, Deputy Secretary,
Health, Medical Education and
Family Welfare Department and
Dr. Dinbandhu Sarangi,
Professor and Head of
Department of Microbiology
Department, Mahatma Gandhi
Memorial Medical College

RESPONDENT

Date of Decision: Nov. 13, 2006

Citation: (2007) 1 BLJR 712

Hon'ble Judges: R.K. Merathia, J

Bench: Single Bench

Advocate: Sriram Pratap Sinha, in I.A. Nos. 2650 and 2651 of 2006, Anil Kumar Sinha, Adv, Krishna Shankar, Kameshwar Biswas, in I.A. No. 2984 of 2006 and Namita Prasad, V. P. Singh, Adv and A.K. Sahani, for the Appellant; H.K. Singh, Standing Counsel No. 1 for Respondent 1 and 3, V. Shivnath Birendra Kumar and Namita Prasad, for the Respondent

Judgement

Ramesh Kumar Merathia, J.

As per the last order, heard the parties, for disposal of this writ petition at this stage.

2. Petitioner filed this writ petition challenging the notification contained in Memo No. 149 (1) dated 10.9.2003 (Annexure 8) issued by respondent No. 3, complaining that respondent No. 4 being junior to him was posted as Acting Principal of Mahatma Gandhi Memorial Medical College, Jamshedpur (for short "M.G.M. Medical College, Jamshedpur") ignoring the length of service and seniority of the petitioner; and for a direction to respondents No. 1 to 3 to consider and grant promotion to the

petitioner in the higher post of Professor and Principal from the date of eligibility with all consequential benefits.

In view of the order I propose to pass, it is not necessary to go into the said dispute/claim raised by the petitioner.

3. Mr. A.K. Sinha, appearing for the intervener Dr. Sriram Pratap Sinha submitted as follows. The writ petitioner filed I.A. No. 2377 of 2006 for restraining the respondents from proceeding pursuant to the interview held on 5/6.7.2006 and due to the order of status quo dated 29.9.2006, the respondents have stayed their hands for Patliputra Medical College, Dhanbad also, though the dispute in the writ petition was regarding M.G.M. College, Jamshedpur only. As per the order passed by this Court in C.W.J.C. No. 420 of 2001, the Health Department proceeded to fill up the posts of Principal and Superintendent at Patliputra Medical College, Dhanbad and M.G.M. Medical College, Jamshedpur in regular manner. As per the Bihar Medical Services Cadre Post and Recruitment Rules, 1997 (for short "the Rules") seniority-cum-merit-cum-efficiency is the criteria for filling up the said posts. As per the said Rules, such posts are to be filled up by selection and not by promotion. A Selection Committee was constituted before which the petitioner, respondent No. 4, the intervenors --Dr. Sriram Pratap Sinha and Dr. Kameshwar Biswas, all appeared, but after the Selection Committee made its recommendation, the petitioner filed the said I.A. No. 2377 of 2006. He lastly submitted that the Government may take decision independently on such recommendations and the parties are always at liberty to challenge the final decision of the Government.

4. Mr. V.P Singh, appearing for the petitioner, submitted that the selection process is bad as the Secretary, Department of Health, who was the Chairman of the Selection Committee, did not take part in the selection process.

5. Mr. V. Shivnath, appearing for respondent No. 4 and Mrs. Namita Prasad, appearing for the intervenor Dr. Kameshwar Biswas and also for respondent No. 4 challenged the selection process saying that the selection committee made recommendation overlooking the terms of the advertisement and experience of the candidates, as per 1990 resolution of the State Government. It was further submitted that Dr. Sriram Pratap Sinha has been given promotion from 1995, three months after his name was recommended; and that the rules of reservation are not being followed.

6. I do not find any reason to interfere with the constitution of the Selection Committee. In the Selection Committee, the Secretary, Department of Health was the Chairman along with two expert/doctor members. The Secretary could not attend the interview on 5/6.7.2006 due to unavoidable reasons and, therefore, a post facto sanction was given to the two members Committee of the said experts/doctors. The parties took part in the interview. No final decision has been taken by the Government as yet.

The Government is required to see whether the recommendations of the Selection Committee are as per the law or not. It has to take an independent decision in accordance with the advertisement, 1997 Rules, the regulation of the Medical Council of India and other relevant/applicable notification etc.

7. It will be open to the parties to put up their grievances before respondent No. 2 within one week from today. The State Government will take a final decision in accordance with law and Communicate the same to the parties within five weeks from today. Respondent No. 2 will also decide the petitioner's claim of inter se seniority with respondent No. 4.

8. With these observations and directions, this writ petition and all the Inter locutory Application Nos. 2377 of 2006, 3012 of 2006 tiled by petitioner, 3010 of 2006 and 3011 of 2006 filed by respondent No. 4, 2650 of 2006 and 2651 of 2006 filed by Dr. Sriram Pratap Sinha, 2984 of 2006 filed by Dr. Kameshwar Biswas are disposed off.

It goes without saying that since the writ petition itself has been disposed of, the order of status quo dated 21.9.2006 has lost it's force.