

MAHARASHTRA ADMINISTRATIVE TRIBUNAL,

NAGPUR BENCH, NAGPUR

ORIGINAL APPLICATION NO.218/2018.

(D.B.)

Dr. Arun Yahwantrao Humne,
Aged 57 years, Occ- Service,
R/o Professor and Head,
Deptt. of Community Medicine,
Govt. Medical College, Akola

Applicant.

-Versus-

- 1) The State of Maharashtra,
Through its Principal Secretary,
Department of Medical Education & Drugs,
Gokuldas Tejpal Hospital Campus,
Mantralaya, 9th floor, B-Wing, Lokmanya Tilak Marg,
Mumbai-400 001.
- 2) The Chairman/Secretary,
Maharashtra Public Service Commission,
Through its Chairman, 8th floor,
Cooperage Telephone Nigam Ltd. Building,
Maharshi Karve Marg,
Cooperage, Mumbai-400 021.
- 3) The Director,
Medical Education and Research,
4th floor, Govt. Dental College Building,
St. Georges Hospital Campus,
C.S.T., Mumbai-40 0001.
- 4) Dr. Ajaykumar Narmadaprasad Keolia,
Dean of Shri Bhausahab Hire Govt. Medical College,
Chakkarbardi, Malegaon Road,
Dhule-424001.

Respondents

Miss A.K. Shah, the Ld. Advocate for the applicant.
Shri P.N. Warjekar, the Ld. P.O. for the respondents 1 to 3.
None for respondent No.4.

Coram:-Shri J.D. Kulkarni, Vice-Chairman (J)
and
Shri Shree Bhagwan, Member (A)

JUDGMENT

(Delivered on this 2nd day of August 2018.)

Per:- Member (A)

Heard Miss A.K. Shah, the Ld. counsel for the applicant and Shri P.N. Warjekar, the learned P.O. for the respondents. None appeared for the respondent No.4.

2. The applicant has filed this O.A. to restrain the respondent Nos. 1 to 3 from appointing respondent No.4 as a Dean, Government Medical College, Akola. From the facts on record, it seems that the respondent No.4 has applied for the post of Dean in view of advertisement issued by M.P.S.C. on 14.9.2017 and admittedly seems to have been recommended by the M.P.S.C., since he got highest marks and stood merit. The only objection taken by the applicant is that, the applicant was already promoted on the said post and was working. But because of this direct recruitment, chance

of the applicant, who stood second in order of merit, has been hampered.

3. The respondent No.4 Dr. Ajaykumar Narmadaprasad Keolia had every right to appear in the interview vide MPSC advertisement No. 63/2017 dated 14.9.2017 and accordingly he appeared and succeeded in the interview and his name appeared in the wait list at Sr. No.1 in order of merit, as shown in the following table of merit list:-

| गुणवत्ता क्र. | उमेदवाराचे नाव | वर्गवारी | ज्या वर्गवारीसाठी उमेदवाराचा विचार झाला ती वर्गवारी | शिफारस | मुलाखतीचे गुण | मु.क्र. |
|---------------|----------------------------------|----------|---|-------------------|---------------|---------|
| 1. | Keoliya Ajay Kumar Narmadaprasad | Open | Open | Open (1) | 65 | 4 |
| 2. | Humne Arun Yashwantrao | S.C. | Open | No post available | 62 | 3 |
| 3 | Upalekar Kalpana Vishnupant | Open | Open | No post available | 60 | 1 |
| 4 | Rajdekar Shekhar Sakharam | Open | Open | No post available | 53 | 5 |
| 5 | Tiwari Umesh Chandra Shiv Govind | Open | Open | No post available | 52 | 2 |

As per this merit list, the respondent No.4 was recommended by respondent No.2 i.e. the MPSC and was appointed by respondent No.1 i.e. the State of Maharashtra to the post of Dean.

4. It is the case of the applicant that, the result of the interview conducted on 16.3.2018 was declared by the MPSC. The applicant made representations to the respondent Nos. 1 and 2 to recommend and appoint him to the post of Dean. Respondent No.4 Dr. Ajaykumar Narmadaprasad Keolia was promoted and appointed as regular Dean initially at Dhule and thereafter, he was given posting at Akola and finally now he is at Indira Gandhi Govt. Medical College at Nagpur on 6.8.2018 as per merit list of interview dated 14.9.2017 vide Advt. No. 63/2017. The applicant submits that as the respondent No.4 secured 65 marks and he is at Sr. No.1, he was given posting. But the applicant having secured 62 marks and is at Sr. No.2, has not been given posting. He prays that being a second topper in the list, he should have been given posting next to the respondent No.4. But it was not done so. Finally, he has approached this Tribunal to redress his grievance in the form of giving him posting at any of the place in Maharashtra State.

5. The M.P.S.C. i.e. R.2 has filed an affidavit on 5.6.2018, copy of which has been supplied to the applicant on 26.6.2018. Respondent No.2 submits that the candidate i.e. R.4. has neither informed the MPSC regarding his promotion on the same post nor did he withdraw his candidature for the post in question. Instead, the R.4

had appeared for the interview for the post of Dean. Therefore, his candidature was rightly considered by the MPSC and was recommended on merit. The applicant is at Sr. No.2 in the merit list prepared for the said post.

6. The applicant submits that as the respondent No.4 secured 65 marks and he is at Sr. No.1, he was given posting. But the applicant having secured 62 marks and is at Sr. No.2, has not been given posting. He prays that being a second topper in the list, he should have been given posting after respondent No.4. But the respondent authorities did not pay any heed over his request. Finally, he prays that he be given posting as a Dean to meet the ends of justice.

7. The Ld. P.O. has placed on record the copy of judgment delivered by this Tribunal on 7th July 2016 in O.A.No.553/2015 in case of Anshuja Garate V/s State of Maharashtra and one another. This judgment supports the case of the applicant, as the said O.A. was allowed.

8. Looking to the above, we came to the conclusion that this is a fit case to call for interference and in the end, we proceed to pass the following order:-

ORDER

- (i) The O.A. is allowed.
- (ii) The respondent No.2 MPSC is directed to recommend the name of the applicant who stood second in order of merit for the post of Dean in any of the Medical Colleges in the State of Maharashtra within a period of one month from the date of passing of this order.
- (iii) The respondent No.1 i.e. the State of Maharashtra through its Principal Secretary, Department of Medical Education and Drugs, Mantralaya, Mumbai is directed to appoint the applicant as a Dean in any of the Medical Colleges in the State of Maharashtra, after having received the recommendation from the MPSC i.e. respondent No.2.
- (iv) This exercise shall be done as expeditiously as possible and preferably within a period of **one month** from the date of this order.
- (v) No order as to costs.

(Shree Bhagwan)
Member (A)

(J.D.Kulkarni)
Vice-Chairman(J)

Dt. 2.8.2018.