

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3040 OF 2023
(ARISING OUT OF SLP (CIVIL) NO.20342 OF 2013)

DR.RAM MANOHAR LOHIYA INSTITUTE OF
MEDEICAL SCIENCES THROUGH ITS
AUTHORISED SIGNATORY KRIPA SHANKAR
PANDEY AND ANR.

APPELLANT(S)

VERSUS

DR. UMESH CHANDRA LAL & ANR.

RESPONDENT(S)

O R D E R

Leave granted.

By the impugned judgment, the High Court has allowed the Service Bench No.471 of 2011 filed by the respondent No.1-*Dr. Umesh Chandra Lal* and quashed the impugned order dated 25.09.2010 with the consequential benefits, but without arrears of salary. It was also left open to the appellant to pass a fresh order after serving show cause notice and providing due opportunity of hearing to the respondent No.1.

It would appear that the respondent No.1 was selected temporarily to the post of Assistant Professor in Anesthesia Department. The appointment order dated 30.12.2009 contained two conditions. Firstly, the respondent No.1 was to join within five weeks. Secondly, he was to submit an original certificate from his previous employer. According to the appellants, an amended appointment order was issued on 02.02.2010. The conditions which we have indicated however continued. The respondent No.1 gave his

joining report on 05.03.2010 with certain documents but the original discharge certificate from the earlier institution was not given. It is the further case of the appellants that the respondent No.1 gave an application for medical leave on the ground of newly born baby and as his wife was not well and she was under treatment and there was nobody apart from the respondent No.1 to take care of them. The said request was rejected by the appellant. The genuineness of the cause for not joining was doubted. The respondent No.1 sent a letter on 22.04.2010 requesting appellants to permit him to go Saifai, Uttar Pradesh to obtain the discharge certificate.

Suffice it to notice that on 25.09.2010, the appellant-Institute canceled the temporary appointment on the ground that the required papers as stipulated in the appointment order were not produced and since he had been absent continuously. On 27.09.2010 , the post which was vacant on account of cancellation of the respondent No.1, was re-advertised. The appellant permitted the respondent No.1 who applied to be interviewed. The Selection Committee, however, did not recommend the name of the respondent No.1. Thereafter, it was on 06.03.2011 that the respondent No.1 filed the petition which culminated in the impugned order.

We heard Ms. Meenakshi Arora, learned senior counsel appointed as Amicus Curiae to assist the Court and also heard learned counsel for the appellants.

We notice that this case has been pending since the year 2013. This Court while issuing notice stayed the order of the High Court. Therefore, we are taking up the the matter after a period of 10

years and the order of the High Court could not be implemented. We asked the learned counsel for the appellants to ascertain whether there is any post against which the respondent No.1 can be accommodated in terms of the order. It is pointed out that there is no such vacancy against which the respondent No.1 could be accommodated.

Ms. Meenakshi Arora, learned Amicus Curiae, would point out that the respondent No.1 had received an offer from a hospital in Saudi Arabia in the year 2013 which was before the order of stay was granted in this appeal and he did not take up that assignment as he continued to hope that he would get the fruits of the impugned order. It is further pointed out that the respondent No.1 was a meritorious candidate belong to the backward community who was subsequently selected by the Union Public Service Commission (UPSC) and he is working in an administrative position in a Government Hospital.

It is pointed out by learned Amicus Curiae that the respondent No.1 had produced the discharge certificate on 24.05.2010. This is countered by the learned counsel for the appellants by pointing out that the respondent No.1 had to produce the discharge certificate by five weeks from the date of the appointment order.

After hearing the learned counsel appearing on behalf of the appellants and learned Amicus Curiae and noticing the facts, we are of the view that the interest of justice require that in place of the impugned direction we order as follows.

The appeal is partly allowed. The impugned order is modified and we direct that in full and final settlement of all claims of

the respondent No.1 the appellants shall pay a sum of Rs.15,00,000/- (Rupees Fifteen Lakhs) to the Ist respondent within a period of six weeks from today.

The appeal is disposed of in the above manner.

We record our deep sense of appreciation for the efforts put in by Ms. Meenakshi Arora, learned senior counsel as Amicus Curiae.

Pending application(s), if any, stand disposed of.

.....J.
[K. M. JOSEPH]

.....J.
[B. V. NAGARATHNA]

New Delhi
Dated; 21st April, 2023.

ITEM NO.27

COURT NO.3

SECTION XI

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

PETITION(S) FOR SPECIAL LEAVE TO APPEAL (C) NO(S). 20342/2013

(Arising out of impugned final judgment and order dated 22-04-2013 in SB No. 471/2011 passed by the High Court of Judicature at Allahabad, Lucknow Bench)

DR.RAM MANOHAR LOHIYA INSTITUTE OF
MEDEICAL SCIENCES THROUGH ITS
AUTHORISED SIGNATORY KRIPA SHANKAR
PANDEY AND ANR.

PETITIONER(S)

VERSUS

DR. UMESH CHANDRA LAL & ANR.

RESPONDENT(S)

([TO BE TAKEN UP AS A FIRST CASE AFTER FRESH MATTERS])

IA No. 4/2016 - EXEMPTION FROM FILING O.T.

IA No. 137998/2019 - PERMISSION TO APPEAR AND ARGUE IN PERSON

IA No. 3/2016 - PERMISSION TO FILE ANNEXURES)

Date : 21-04-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

Ms. Meenakshi Arora, Sr. Adv. (Amicus Curiae)

For Petitioner(s) Mr. Aarohi Bhalla, Adv.
Mr. Aadhar Nautiyal, Adv.
Mr. Sanjeeva K Gupta, Adv.
Ms. Sujata Kurdukar, AOR

For Respondent(s) Respondent-in-person

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is partly allowed in terms of the signed order.

Pending application(s), if any, stand disposed of.

(JAGDISH KUMAR)
COURT MASTER (SH)

(RENU KAPOOR)
ASSISTANT REGISTRAR

(Original signed order is placed on the file)