

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.009017 OF 2017
(Arising out of SLP(C) No.26803/2010)

DR. VINEET KUMR MISHRAAPPELLANT(S)

VERSUS

STATE OF U.P. THR. SECRETARY & ORS. . . .RESPONDENT(S)

WITH

CIVIL APPEAL NO.009018 OF 2017 [@ SLP(C) NO.30471/2010]

O R D E R

Leave granted.

These appeals have been preferred by the appellants against the common impugned judgment and order dated 06.08.2010 passed by the High Court of Judicature at Allahabad in Civil Miscellaneous Writ Petition Nos.14474/2010 whereby the High Court allowed the said writ petition filed by the original writ petitioner, quashed the order dated 24.03.2007 passed by the Principal, Baba Raghav Das Medical College, Gorakhpur, and permitted the selection for the post of Demonstrator in the Dental Surgery Department of the Medical College from fresh graduates in accordance with the Government Order dated 05.08.1993.

We have heard learned counsel appearing for the parties and perused the record.

It is obvious that quashing the order dated 24.03.2007 will not result in the creation of any vacancy because the appellant - Dr. Vineet Kumar Mishra was regularised against the permanent post of Demonstrator by order dated 04.11.2009. This order was neither questioned before nor set aside by the High Court.

In this view of the matter, it was not open to the High Court to direct fresh selection to the post of Demonstrator as if that post is vacant.

Hence, we allow these appeals, set aside the common impugned order dated 06.08.2010 passed by the High Court in Civil Miscellaneous Writ Petition No.14474 of 2010, and remand the matter back to the High Court for fresh decision in accordance with law.

However, Respondent no.5 - Dr. Anand Kumar shall be at liberty to apply for amendment in accordance with law.

.....J
[S. A. BOBDE]

.....J
[L. NAGESWARA RAO]

NEW DELHI;
JULY 14, 2017.

ITEM NO.3

COURT NO.8

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). 26803/2010

(Arising out of impugned final judgment and order dated 06-08-2010 in CMWP No.14474/2010 passed by the High Court Of Judicature At Allahabad)

DR. VINEET KUMR MISHRA

Petitioner(s)

VERSUS

STATE OF U.P. THR. SECRETARY & ORS.

Respondent(s)

(FOR ON IA 4/2012 FOR EXEMPTION FROM FILING O.T. ON IA 5/2013 FOR [PERMISSION TO FILE ANNEXURES] ON IA 6/2015)

WITH SLP(C) No.30471/2010 (XI)

Date : 14-07-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE

HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s)

Mr. P.N. Mishra, Sr. Adv.

Mr. Sanjay Kumar Visen, AOR

Mr. Abhishth Kumar, AOR

For Respondent(s)

Mr. Harikesh Singh, Adv.

Mr. Kamal Mohan Gupta, AOR

Mr. S.R. Singh, Sr. Adv.

Mr. Ardhendumauli Kumar Prasad, Adv.

Mr. Aishwarya Pathak, Adv.

Ms. Niranjana Singh, AOR

Mr. Sanjay Kumar Visen, AOR

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

Leave granted.

These appeals are allowed in terms of the signed order.

Pending interlocutory applications, if any, stand disposed of.

(SANJAY KUMAR-II)
COURT MASTER (SH)

INDU KUMARI POKHRIYAL)
BRANCH OFFICER

(Signed Order is placed on the file)