

Karnataka High Court

Dr B Srinivasa vs Union Of India on 21 October, 2010

Author: H N Das

IN THE HIGH COURT OF KARNATAKA AT

DATED THIS THE 21st DAY OF OCTOBER, - ~

BEFORE

THE HON'BLE MR. JUSTICE H.N. :IN.A:G~AMdHfIXN

WP.No.16222~16227/EEEQEDNQRE§j 'V':

BEEWEIEN:

1. I)R.E.sRINIvAsAV ' '

5/0 DBEERAPPA * ' '

AGE:36YEARS V " "

WORKING AsEENERAEDUTE__I\zI~EI3'I'CAL OFFICER

PRIMARY I-IEAI.ITIIi_'c;»EIxITRIE._V I

KANALL.BEN.({ALUR'E:E=NORTH TA-I;uI<"'

BENGALURU LIR'I3A,.I\:1AI)IsTRIVC*-E,, _ -

2. I)R.C.M.H'AFJLIMANT'IAIA»--RAIU

S/O CHVIKKAMUANI'YF\ .RAsF.FFA

AGE: 37_YEA.RS ' '

" 'w0RI<IIxIC;_--As GAENEL'{"A'f"D UTY MEDICAL OFFICER

PRIMARY vHEA..L"I'{-I CENTRE

'NAMAGONDLUQ' {EOWRIBIDANUR TALUK

CF}IKI?IA«BALIf;A_PUR'DIS"i'RICT.

.3. DR';'3AN:rII0'sI«I BABU G.V.

.. EIO H.G.VENAKATA REDDY

f I' e "AGE:.37 YEARS

wo.RI<I"I;~IG As GENERAL DUTY MEDICAL OFFICER

._ GENE'RA;L HOSPITAL, CHINTAMANI

jCIIII<I<AEALLAF'IJR DISTRIC'1"»563 125

" -, I4. DR. JAYANTHI RR.

D/O P.RADHAE<R\SHNAIAH SETTY

9-...

2'-._,, ' '

KI

ix.)

AGE: 42 YEARS

PRESENTLY WORKING AS JUNIOR SPECIALIST
ESI DISPENSARY COTTONPET,
BENGALURU--560 053.

5. DR.SAVITHAM.S.

w/o DR. ?U' {TAi\ /IADAIAH, GM.

AGE: 37 YEARS v ' _ .y A" «

PRESENTLY WORKING As ASSISTANT S'€JRG'EQN A

HOSAHALLI REFERAL HOSPITAL '

BENGALURU-56o 040.

6. DR.SHOBHA.T.

D/O B.M.THIBBEGOWDAv ..

AGE: 40 YEARS _

PRESENTLY WORKING As Ass1s*1'A.m*s'uRQ1:(;>N'

MAGADEROAD MA'}f_ERN£TYw-HOME' ' "

BENGALURU--56o..(2«:z;3. I " -.

3 ' IWCIPETITIONERS

(BY DR.B;SRINIVAs';DR';c.M;A}:ANUMAlwHARAM,
DR.SANTH{)SH BABU;G;,V,;' D__R.'fA5;*ANTHI P.R., DRSAVITI-iA.M.S.,
DR.sH0BHA:T,_ PIE'I'I'£TIONERS« "':_;.T0 6 - PARTY IN
PERS01\ISV(ABSEI1'\f"[f) » _ '

RE\$3RESENTE--I)j --BY? ITS SECRETARY
MINISTRY_0*F_H.wEAI,'!"}Wi AND FAMILY WELFARE

- VNIRMAIN. BHAVAN,
" " -« DELHI'? 110 on.

2. "FHE.--'SECRETARY,
-.ffME"D£CAL COUNCIL OF INDIA,
I .,pHQCl<ET«14, SECTOR--8,
- _ '=_DwARAI<A PHASE4
' NEW DELHI -- 1.1.0 002.

rs.

= ' - J

J "

BENG£ 'ILURU - - 560» 94%. ' .

t (By .R.BASAvARA}, ASG FOR R1 & 4

3. SECRETARY

HEALTH & FAMILY WELFARE DEPARTMENT,
GOVERNMENT OF KARNATAKA,

ViKAS SOUDHA,

DR.B.R.AŞ\ /IBEDKAR ROAD

BENGALURU - - 560 001.

4. DIRECTOR

ESIS MEDICAL SERVIC ES
RAJAHNAGAR,
BENGALURU - - 560 010.

5. COMMISSIONER

BRUHAT BENGALURU MAIIAI~s_Ac;ARA;PA_L.I'I<1:Ş:AV.V ' .
CORPORATIONCIRCLE,
BENGALURU - - 560,00I_ . I

6. THE DIRE::TO_R. 0I~"?IyIfI:I1;CAI.EIIUCATION
ANAND RAO CvIRCL:E, ' M
BENGALURU

7. RIaGIS'I_RAR, ' V" .

RAJIV GANDHE .UNv.ERSIIy"0_II'HEALTH SCIENCES,

4*" T BLOC K; }AYANA;QAR, ~~

RESPONDENTS

;.Si'iv..IŞH.,ETT"E5,ADV. FOR R2 1 . S131.«K;S[MAi.i;IVKAXRIUNAIAH, GP FOR R3 & R6
'SrA'e.NILOI;2FEiR AKBAR FOR R7 Sfi. I<.If~I.'I>U--*I*I'I:(;OwI)A, ADV. FOR R5) .. ,_TH}??.SE
WRIT PETITIONS ARE FILED WA 225 3: 227 OF "CONSTi'II}"TIO1\3 OF INDIA WITH A PRAYER
TO STRIKEWDOWN _ -PRO'vISO TO REGULATION 9 OF MEDICAL COUNCIL OF INDIA
VNRREGULATIONS AND DECLARE THE SAME As UNSCIENTIFIC AND '«.I,"UNI~'I2;AsIBLE,
IN SO FAR AS INWSERVICE CANDIDATES ARE j'CONCERNED AND ETC.

a _j\.\.

These petitions coming on for orders this dayéthiei made the foiiowing:

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In these writ petitions the petitio7.ne1's have "prayed i" ~foir7.éi writ in the nature of certiorari to _ 4 st ~: i k e d o w n ' t . h e " i □ r s - - t " f 5 r o x r i s o t o " R e g u l a t i o n 9 o f I \ □ . e d i c a } ' : ' C o t i n c v i i i m o f i l r i r i i g . g e g n i a t v i o n s i j (f o r s h o r t ' R e g u l a t i o n s ') a n d f o r c i r e c t i n g t h e r e s p o n d e n t s p a r t i c i p a t e i n P G E T -- 2 { } 1 0 u n c i e r i n § s e r V : i c e -- t ; ' L ; ; o t a i K _ . - w ' o ; * k . i n g i n t h e D e p a r t m e n t o f H e a l t h a n d F a r n i i e é 2 " W e i f ; i r e i , ' i . : _ { } o i r f : r n m e n t o f K a r n a t a k a . T h e s e c o n d r e s p o n d e n t ' f r a n e t i . r _ e _ g i . l a t i t) n s f o r t h e p u r p o s e o f a d m i s s i o n t o P o s t G r a d u a t i o n i n M e d i c i n e . T h e f i r s t p r o v i s o t o R e g u l a t i o n 9 o f t h e 4 4 R e g i : i a t i _ o 1 1 i s s p e c i f y t h a t a c a n d i d a t e s h a i l s e c u r e a m i n i m u m o f 5 0 % o f t h e e n t r a n c e t e s t f o r a d m i s s i o n t o P o s t G r a d u a t i o n i n M e d i c a l s c i e n c e s . I 3 ' e t i i i o n . e r s c o n t e n d t h a t f o r t h e a c a d e m i c y e a r ' Q ; _ . - a ~ 2 0 1 0 2 0 1 1 , 1 1 8 m e d i c a l s e a t s w e r e r e s e r v e d f o r c a n d i d a t e s . A s a g a i n s t U S s e a t s o n l y 8 6 c a n d i d a t e s " s e § : u r e d . _ x ' . m i n i m u m o f 5 0 % a s s p e c i f i e d i n f i r s t _ p r G ' . ! ! S O t s) R e g u - l § a t i e ' 1 1 o f , ' V t h e R e g u l a t i o n s . O u t 9 1 ' 8 6 V s u c c e s s f u l _ : e a n d l d a . t e s . c a n d i d a t e s o p t e d f o r t h e s e a t s a n d l g d t V : ' a d m i t t e d . t l Q " P C T h e r e m a i n i n g 4 6 u n _ t l l l e C l J ' : l ' f € 1 f g a t t t ' i n f e r a l e e u l c a n d i d a t e q u o t a . I n t h i s ' e g a r d , W l s g j - e l a t i o n r e q u e s t e d t h e S e c r e t a r y , a n d F a m i l y W e l f a r e v p v D e p a l t t r n e f t ; ; t Q _ p r o v i s o t o R e g u l a t i o n 9 , t o a l t e r _ f r < .) r n 5 0 % t o 4 5 % i n r e s p e c t o f G e n e r a l M e r i t V L * a t 1 ; j § ~ . i d a ' r t _ e s " a n d 3 5 % i n r e s p e c t o f r e s e r v e d l l " c a n d i < : l a t 3 e s A . R e z a e t i n g l l l t e l t h e r e q u e s t o f p e t i t i o n e r s , t h e S e c r e t a r y t o K a r n a t a k a w r o t e t o t h e J o i n t S e c r e t a r y , l \ / £ i n . i ' s t r y v * -- . V (:) . f H e a l . t } ' 1 a n d F a m i l y W e l f a r e , G o v e r n m e n t o f I n d i a a s l l l . . □ p e : l * A n n e x u r e -- F d a t e d 6 . 5 . 2 0 1 0 . F u r t h e r i t i s s e e n t h a t t h e ' d e p a r t m e n t o f M e d i c i n e : s } E d u c a t i o n a s p e r c o m m u n i c a t i o n d a t e d 2 2 . 3 . 2 0 1 0 A . n m ; ' } : l . l . ' (e ' * (l r e q u e s t e d t h e S e c r e t a r y t o M e d i c a l f \ . . . , r J "

(7 Council of India to alter the percentage from 50% to 45%. The Association of (i) < : > v e r 1 1 t n e m D o c t o r s a l s o r e q u e s t e d t h e " s e ' c o n d r e s p o n d e n t a s p e r A n n e x u r e -- H d a t e d 2 6 . 4 . 2 0 1 0 V ' m i n i m u m p e r c e n t a g e f r o m 5 0 % t o : ' i 4 i 5 ° / 6 ; ' . p _ S i n c _ e S e c e n d " . r e s p o n d e n t f a i l e d t o c o n s i d e r t h e " . . r e i c o m m e n d a t i ' o n f r o " 1 n ' G o v e r n m e n t o f l i a r n a t a i s i a a s p e r i i i " A . n n e x u r e v F ' h a n d a n d t h e r e p r e s e n t a t i o n a t _ i \ 1 1 n e > < u -- r _ e } * H , ' i _ t h e ~ p e ' t i t ' i o n ' e t _ s a r e b e f o r e t h i s c o u r t .

He; i . € ; -- ; t _ l e ; 1 r n e d " * « . c _ o 1 1 n _ s e 1 f o r t h e r e s p o n d e n t s a n d p e r u s e d t h e « e n t i r e p a p e r s . P e t i t i o n e r s r e m a i n e d u n r e p r e s e n t e d .

4. i i S i ~ n c c t h e s e c o n d r e s p o n d e n t f a i l e d t o c o n s i d e r t h e i i r e q t t e s t a t . i P t n n e § f < t : " r e s ~ £ i ' , G a n d H t h e p e t i t i o n e r s a r e b e f o r e t h i s

-- V C o t i t t ' . r e g a r d t o t h e p r a c t i c a l d i f f i c u l t i e s e x p r e s s e d b y t h e f p e t i t i o p n e r s , t h e s a m e r e q u i r e s c o n s i d e r a t i o n b y t h e s e c o n d r e s p o n d e n t . N o p % . ' e § L 1 C i i C € w t i i . b e c a u s e d t o t h e s e c o n d r e s p o n d e n t

- ' \ r i f t h e y a r e d i r e c t e d t o c o n s i d e r t h e r e q u e s t a t A n n e X u r e s » F , G a n d H i n a c c o r d a n c e w i t h l a w .

For the reasons stated above, the following order:

i) VVri£ petitions are hereby disposed.

ii) Second respondent is hereby' directed"to"cQnéidetc{he CG1E1{I1uJ'1§CaiiO1'} dated 06.G5.2U__1do'as com.1I1ur1iL'ati(',>n date'd..._LuIZ"2.b3.20"10 as -pei□x f5V{nv1déXu'fe~G 'V and the 26.4'¥.V201'{}v as per _A"h?2';_exot3e¢1:c{--_V\$4.1 accordance with law and as d expcd'itiokfs'1y booésibie. Ordered accordingky. I' ' ' JUDGE