

* **HIGH COURT OF DELHI : NEW DELHI**

+ **Writ Petition (Civil) No. 13451 of 2009**

Judgment reserved on: November 26, 2009

% Judgment delivered on: January 13, 2010

Dr. Vineet Relhan
S/o Shri N.D. Rellhan
R/o 35-F, Sector-7
SFS Flats, Jasola Vihar
New Delhi-110025.

.... Petitioner

Through Mr. S.K. Shukla with Mr. Rajiv
Shukla, Advocates.

Versus

1. Union Public Service Commission
Shahjahan Road, New Delhi-110069
Through its Secretary.

2. Union of India
Ministry of Health and Family Welfare
Nirman Bhawan
New Delhi-110001
Through its Secertary.

.... Respondents

Through Mr. Naresh Kaushik, Advocate for
Resp. 1.
Ms. Sonia Mathur with Mr. Pankaj
Prasad, Advocates for Resp. 2.

Coram:

HON'BLE MR. JUSTICE MADAN B. LOKUR
HON'BLE MR. JUSTICE MUKTA GUPTA

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| 1. Whether the Reporters of local papers may be allowed to see the judgment? | Yes |
| 2. To be referred to Reporter or not? | Not necessary |
| 3. Whether the judgment should be reported in the Digest? | Not necessary |

MADAN B. LOKUR, J.

The Petitioner is aggrieved by an order dated 4th November, 2009 passed by the Central Administrative Tribunal, Principal Bench in OA No. 1914/2009.

2. The Petitioner made an application in response to an advertisement for appointment to the post of Specialist Grade-II (Dermatology). When the Petitioner was not called for an interview, he filed an Original Application before the Tribunal on 16th July, 2009.

3. During the pendency of the Original Application, the Petitioner received a letter from the Respondents on 23rd July, 2009 informing him that since he had not annexed the necessary certificates, his application form was not accepted. The certificates that the Petitioner did not submit with the application form were:-

- (i) Matriculation certificate as proof of date of birth
- (ii) MBBS degree certificate and
- (iii) M.D. (Dermatology) degree certificate

4. The Petitioner contended before the Tribunal that the certificates were in fact submitted by him and the application was received by an official of the Union Public Service Commission (UPSC) who spent a considerable amount of time in checking the application. It is only thereafter that the Petitioner was given a card for being called for an interview.

5. The UPSC contended before the Tribunal that the Petitioner did not furnish the requisite certificates along with the application form.

6. The only way in which the issue could be sorted out by the Tribunal was to call for the original application form, which it did. The Tribunal noted that the Petitioner submitted the following documents along with the application form: -

- (i) published papers;
- (ii) clinical trials conducted;

- (iii) conferences attended and presentation done;
- (iv) other academic activities; and
- (v) experience certificate.

7. On a perusal of the original application form, the Tribunal was satisfied that the documents mentioned in the letter dated 23rd July, 2009 were not submitted by the Petitioner and on this basis rejected the original application filed by him.

8. Before us, learned counsel for the Petitioner contended that the documents could have been produced by him later on and his mere failure to submit the requisite documents at the appropriate time ought not to have an adverse effect. In this regard, learned counsel for the Petitioner relied upon *Charles K. Skaria and others v. Dr. C. Mathew and others, (1980) 2 SCC 752* which was followed in *Dolly Chhanda v. Chairman, JEE and others, (2005) 9 SCC 779*.

9. We have perused the two decisions cited by learned counsel for the Petitioner. It is true that the Supreme Court held that a formalistic and ritualistic approach should not be followed in such

matters. However, in *Charles K. Skaria* the relevant proof of eligibility was in fact produced by the candidates before the selection was made, as mentioned in paragraph 20 of the Report. In *Dolly Chhanda* the candidate belonged to the reserved MI category and there was some error in the certificate issued to her as a result of which her candidature was cancelled. This error was later rectified and under these circumstances, the Supreme Court held that depending upon the facts of a case, there can be some relaxation in the matter of submission of proof and it would not be proper to apply any rigid principle as it pertains to the domain of procedure.

10. In so far as the present case is concerned, there is nothing on record to suggest that the Petitioner submitted the requisite documents at the appropriate time. That apart, it is not as if the Petitioner is uneducated or could not have filled the form intelligibly. He claims to hold a degree of M.D. (Dermatology) and he ought to have been clear about the fact that the requisite certificates must be furnished along with the application form. For his failure to do so, the Petitioner has only himself to blame.

11. From the counter affidavit filed before us, it appears that the candidature of some other candidates were also rejected on the ground that they failed to submit the requisite certificate of educational qualifications, experience, community, etc. It has also been mentioned in the counter affidavit that the UPSC had clearly mentioned in the advertisement that no provisional claim would be accepted and the requisite certificates must be filed along with the application form. Given these facts, we are not inclined to re-open the selection process or interfere with the impugned order.

12. Dismissed.

MADAN B. LOKUR, J

January 13, 2010
vk/kapil

MUKTA GUPTA, J

Certified that the corrected copy of the judgment has been transmitted in the main Server.