

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment Reserved on : December 14, 2010*
Judgment Pronounced on: December 20, 2010

+ **W.P.(C) 145/2010**

AIIMS Petitioner
Through: Mr.Rajat Katyal, Advocate with
Mr.Anchit Sharma, Advocate

versus

DR.N.N.SARKAR & ORS. Respondents
Through: Ms.Rina Sarkar, Advocate for R-1
Mr.Sanjay Parikh, Advocate with
Mr.Abinash K.Mishra, Advocate for
R-2
Ms.Anjana Gosain, Advocate for R-3

W.P.(C) 187/2010

DR.ANAND KUMAR Petitioners
Through: Mr.Sanjay Parikh, Advocate with
Mr.Abinash K.Mishra, Advocate

versus

UOI & ORS. Respondents
Through: Ms.Anjana Gosain, Advocate for R-1
Mr.Rajat Katyal, Advocate with
Mr.Anchit Sharma, Advocate for R-2
and R-4
Ms.Rina Sarkar, Advocate for R-3

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MR. JUSTICE SIDDHARTH MRIDUL

1. Whether the Reporters of local papers may be allowed

to see the judgment?

2. To be referred to Reporter or not?

3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J.

1. Writ petition No.2493/2000 filed in this Court by Dr.N.N.Sarkar, the first respondent in WP(C) No.145/2010 and the third respondent in the connected writ petition, challenging selection and appointment of Dr.Anand Kumar, the writ petitioner of WP(C) No.187/2010 and impleaded as respondent No.2 in WP(C) No.145/2010, on being transferred to the Central Administrative Tribunal and registered as TA No.677/2009, has been allowed by the Tribunal vide judgment and order dated 14.10.2009; questioned by All India Institute of Medical Sciences (AIIMS) and Dr.Anand Kumar in the two captioned petitions. The dispute pertains to the eligibility of Dr.Anand Kumar to be appointed under All India Institute of Medical Sciences as Professor (Reproductive Biology).

2. Reason why the Tribunal has held in favour of Dr.N.N.Sarkar and against Dr.Anand Kumar are to be found in para 5 of the impugned order which reads as under:-

“5. We have heard the learned counsel representing the respondents and with their assistance examined the records of the case. **(a)** The 3rd respondent, who admittedly comes from medical discipline, does not possess post graduate qualification e.g. MD/MS or a recognized qualification equivalent thereto in the discipline of reproductive biology. **(b)** Admittedly, insofar as the candidates coming from the stream of medical disciplines are concerned, there is no relaxation in the essential qualifications. What clearly emerges is that to be eligible for the post under contention, a candidate from medical discipline must either possess degree of MD/MS or a recognized qualification equivalent thereto, and it has to be in the concerned discipline. As mentioned above, the 3rd

respondent is not MD or MS in the concerned discipline. **(c)** One thing which can be certainly said is that whatever academic qualification the 3rd respondent may have, it is not related to the concerned discipline. If it be the case of the respondents that the academic qualification of the 3rd respondent is such that it would be part of the concerned discipline, namely, reproductive biology, then in that case it has necessarily to be said in the advertisement. **(d)** We may not go into the question as to whether the qualifications obtained by the 3rd respondent are such which may be a part of reproductive biology, as is the case of the respondents, controverted by the applicant in his additional affidavit, as that may not be necessary for deciding the controversy in issue. **(e)** We are of the firm view that if it was to be the case of the respondents that no one in India would have MD or MS in reproductive biology, as up to 1990 no institute had offered such a course, then in that case the advertisement had to say that in case of non-availability of a candidate having the qualification as mentioned in the advertisement, the choice could also fall upon those who had qualifications related to different disciplines, which, according to the respondents, would be part of reproductive biology. We have said so because in that case, number of other persons might have become eligible, and it is possible that facing stiff competition from number of candidates who may be thus eligible, the 3rd respondent might have no chance whatsoever for selection. We need not refer to any case law, as it is well settled proposition of law that no selection can be made of a candidate who does not answer the qualifications as prescribed either in the recruitment rules or the advertisement. We may mention that it is not that the respondents were not alive to the situation. It would be seen from the advertisement itself that insofar as, the candidates in non-medical streams or disciplines are concerned, note two below the essential qualifications specifically relaxed the post graduate qualification e.g. master's degree in the discipline if they would possess master's degree in reproductive biology or biology or physiology. If this relaxation was to be given to those coming from medical discipline, similar note as appended for the

candidates coming from non-medical discipline, ought to have been there for candidates coming from medical streams as well. As mentioned above, non-mention of such a note or relaxation in qualification, deprived number of candidates who would be eligible if there was to be relaxation in qualifications.”

3. We have, in bold, inserted letters **(a)** to **(e)** while reproducing para 5 of the impugned order for facility of reference while we would be analyzing the reasoning of the Tribunal.

4. Time to note the facts. An advertisement was issued by All India Institute of Medical Sciences (AIIMS) inviting applications from eligible candidates for 12 posts of Professors in various disciplines, one of which was the post of Professor (Reproductive Biology). Vide serial No.5 of the advertisement, pertaining to the post of Professor (Reproductive Biology) it was clearly indicated that both medical and non-medical candidates would be considered. Under the caption 'General Information' it was clearly mentioned:-

“4. The essential qualifications are relaxable at the discretion of selecting authority.”

5. The advertisement separately notified the academic qualifications pertaining to the candidates who came from Medical as also Non-Medical Disciplines, for the obvious reason for certain posts notified, for example, that of Professor(Reproductive Biology) it was indicated that both medical and non-medical candidates were eligible. Pertaining to the medical discipline the academic qualifications prescribed were as under:-

“I) ACADEMIC QUALIFICATIONS (FOR MEDICAL DISCIPLINES)

A) ESSENTIAL

i) A medical qualification included in Schedule I & II or part II of the third schedule of the Indian Medical Council Act or 1956 (candidates possessing the qualifications included in Part-II of the third schedule should also fulfill the conditions specified in section 13(3) of the Act).

ii) A postgraduate qualification e.g. MD/MS or a recognized qualification equivalent thereto in the discipline/subject of Anatomy, Dermatology & Venereology, Neurology, Neuro-surgery, Urology, Medicine, Surgery, E.N.T. Reproductive Biology and Radio-Diagnosis.

AND/OR

D.M. for super speciality of Neurology and M.Ch for super speciality of Neuro-Surgery and Urology or qualification recognized equivalent thereto.”

6. Academic qualifications prescribed for candidates coming from non-medical disciplines were as under:-

“II) ACADEMIC QUALIFICATIONS (FOR NON-MEDICAL DISCIPLINES)”

A) ESSENTIAL

i) Postgraduate qualification e.g. Masters Degree in the discipline/subject.

ii) Doctorate Degree of a recognized University.

B) EXPERIENCE

Fourteen years teaching and/or research experience in a recognized Institution in the subject discipline/subject concerned after obtaining the Doctorate Degree.

NOTE:-

1. For the post of Professor of Anatomy, the non-medical candidates should possess Master's Degree in Anatomy.
2. For the post of Professor of Reproductive Biology, the non-medical candidates should possess Master's Degree in Reproductive Biology or Biology or Physiology."

7. It may be noted that in the advertisement after stipulating the academic qualifications, under the caption 'General Information', Note-4 stated, as noted in para 4 herein above, that the essential qualifications are relaxable at the discretion of the selection authority.

8. The post of Professor (Reproductive Biology) was created for the first time on account of the fact that 'Ford Foundation' had given a grant to the Government of India for an Integrated Program of Research and Training in the Physiology of Reproduction and according to the scheme framed for utilizing the grant pertaining to the program of Research and Training in Physiology of Reproduction the work of various departments of the institute and in particular that of Physiology, Obstetrics and Gynaecology, Biochemistry, Pharmacology and Biophysics had to be co-ordinated; a functioning envisaged vide serial No.3 of Agenda Item No.8 containing the proposal for approval by AIIMS which had to function as the pioneering institute in the field of 'Physiology of Reproduction'.

9. Dr.Anand Kumar, having a MBBS degree as also a Degree in M.D. (Physiology) applied for appointment to the post of Professor (Reproductive Biology) and also informed in the application that he had Post Doctoral Fellowships in the field of Pharmacology Laboratory, Cellular and Molecular Pathology as also Human Reproduction. Dr.R.N.Sarkar also

applied and claimed to be the holder of a degree in M.Sc. (Zoology).

10. Relevant would it be to note that for the post of Professor (Reproductive Biology), those from medical discipline were required to have a post-graduate degree in Reproductive Biology but those from non-medical disciplines were required to have a post-graduate degree in any of the three disciplines i.e. Reproductive Biology, Biology or Physiology. Dr.Sarkar applied on the strength of having a degree in M.Sc. (Zoology).

11. A duly constituted selection committee was constituted and various applicants were interviewed. Dr.Anand Kumar was selected and issued the letter of appointment. Dr.N.N.Sarkar questioned the appointment of Dr.Anand Kumar alleging that since Dr.Anand Kumar came from the medical discipline, as per the advertisement in question, the essential qualifications required by him was a Masters' Degree i.e. M.D.(Reproductive Biology) and that since Dr.Anand Kumar was an M.D.(Physiology), he did not possess the essential qualification to be appointed as a Professor(Reproductive Biology). Additionally, Dr.Sarkar questioned the appointment being effected alleging that the subject experts were not associated. Dr.Sarkar raised various issues questioning the record pertaining to the selection of Dr.Anand Kumar and thus, when WP(C) No.2493/2010 i.e. the writ petition filed by Dr.Sarkar came up for hearing in this Court before it came to be transferred to the Tribunal, Dr.Sarkar filed CM No.5783/2001 praying that the record of the selection committee be produced and as recorded in the order dated 23.4.2002, the record was produced in this Court when CM No.5783/2001 and the writ petition were listed. The record was perused by this Court and was found to be in order. Facts

noted in the order dated 23.4.2002 establish that the averments made by Dr.Sarkar pertaining to the infirmity in the selection process were found to be to the contrary to the record and thus we reproduce the order dated 23.4.2002. It reads as under:-

"CM 5783/2001

This is an application for production of record. Mr.Gupta says that record is with him even today and he will produce the same as and when the same is directed to be produced.

In view of the statement of counsel for the respondent No.1, this application has become infructuous.

Dismissed.

CW 2493/2000

I have heard the matter at length. Records have been perused. The apprehension of the petitioner is ill-founded as the experts Dr.E.Vijayan and Dr.Jaganadha Rao both have given their respective marks to all the candidates who were considered including the petitioner. Even the list unanimously recommended the name of respondent No.3. Chairman along with seven other members have signed the note of the Selection Committee held on 18.2.2002.

Learned counsel for the petitioner has contended that the appointment of respondent No.3 was illegal as respondent No.3 was not eligible to be selected in view of the advertisement issued by the respondents inter alia for one post of Professor in Reproductive Biology. It has been argued before me that the essential qualification for said post was a Post Graduate degree i.e. M.D. in the discipline of Reproductive Biology with 14 years teaching and/or research experience in the subject of speciality from a recognized institution. It is contended that in view of the essential qualification prescribed in the advertisement respondent No.2 could not have

selected respondent No.3 who had experience of Physiology and degree in Physiology. In support of his contention, learned counsel for the petitioner has cited The District Collector & Chairman Vizianagaram (Social Welfare Residential School Society) Vizianagaram & Anr. Vs. M.Tripura Sundari Devi JT 1990 (2) SC 169, A.P.S.Narang Vs. PGI 1990 (1) P&H (SLR) 716, Director of AIIMS etc. Vs. Nikhil Tandon & Ors. JT 1996 (2) SC 473. The case of the petitioner is that he was a non-medical candidate.

In the whole writ petition it has not been stated as to how the discipline of the stream of Reproductive Biology and the discipline of Physiology could not be compatible. Counsel for the petitioner, at this stage, prays for some time to file an additional affidavit. Let the same be filed within four weeks. A direction is also issued to respondent No.2 to also file an affidavit as to how respondent No.3 who was MD in Physiology could be considered for the post of Professor in Reproductive Biology when the essential academic qualification was Post Graduate degree in the discipline of Reproductive Biology. Let the same be also filed within four weeks. Counsel for respondent No.3 also prays for some time to file additional affidavit in this regard. Let the same be also filed within four weeks.

Renotify for 18.9.2002.”

12. Relevant would it be to note that the final battle fought by Dr.Sarkar with Dr.Anand Kumar got restricted to Dr.Anand Kumar’s eligibility with reference to essential academic qualifications.

13. We have noted in paragraph 2 above the reasoning of the Tribunal in favour of Dr.N.N.Sarkar and as indicated by us we have divided paragraph 5 into 5 components by inserting letters **(a)** to **(e)** in the paragraph.

14. With reference to what has been held by the Tribunal under sub-head **(a)** suffice would it be to state that it has surprised us that the Tribunal has commenced the journey by recording that Dr.Anand Kumar does not possess a post-

graduate qualification or a recognized qualification equivalent thereto in the discipline of Reproductive Biology.

15. The very debate before the Tribunal was whether the degree of M.D.(Physiology) possessed by Dr.Anand Kumar was to be treated at par with a degree of M.D.(Reproductive Physiology) and indeed the stand of Dr.Anand Kumar as also AIIMS was that the degree M.D.(Physiology) was equivalent to the degree M.D.(Reproductive Physiology) and both had categorically pleaded that no institute, college or university in India awards the degree M.D.(Reproductive Physiology) and for which we find notwithstanding the Tribunal proceeding with the discussion as noted herein above under sub-head **(a)** of para 5, it proceeded to consider the issue under sub-head **(d)** and **(e)**. But for unexplainable reasons has held that it need not go into the question as to whether the qualifications of Dr.Anand Kumar are such which may be a part of Reproductive Biology.

16. But the manner in which the Tribunal has penned its thought leaves a lurking suspicion in the mind of the reader that the Tribunal has approached the issue with a foreclosed mind.

17. Reason under caption **(b)** given by the Tribunal that admittedly for candidates coming from the stream of medical disciplines, no relaxation in the essential qualifications was provided but was provided for candidates coming from the non-medical discipline, has surprised us for the reason the advertisement, as noted by us hereinabove in paras 4 to 6, after listing the essential qualifications for medical as well as non-medical candidates, under the caption 'General Information', has stipulated that essential qualifications are relaxable at the discretion of the Selecting Authority. Thus,

reasoning under caption **(b)** given by the Tribunal are totally absurd and a mis-reading of the advertisement. Merely because in the advertisement the academic qualifications for medical disciplines was given first and thereafter for non-medical disciplines and thereafter 'General Information' was provided does not mean that the points listed under 'General Information' were limited to the non-medical category. But this is irrelevant as it is not the case of AIIMS that it exercised power to relax the eligibility qualifications. As per AIIMS, Dr.Anand Kumar was a duly qualified candidate.

18. Let us revisit the advertisement pertaining to the academic qualifications for candidate from medical disciplines and we find the words used are: '*A post-graduate qualification e.g. MD/MS or a recognized equivalent thereto in the discipline/subject of Anatomy, Dermatology and Venereology, Neurology, Neu-Surgery, Urology, Medicine, Surgery, ENT, Reproductive Biology and Radio-Diagnosis.*' The words 'a recognized equivalent thereto' strikes the reader. We are surprised that this has escaped the attention of the Tribunal. Indeed, the task to be performed by the Tribunal was to determine whether the degree M.D.(Physiology) held by Dr.Anand Kumar was equivalent to that of M.D.(Reproductive Biology) and indeed the order dated 23.4.2002 passed by this Court clearly records that it is this controversy which has to be sorted out and noting that the existing pleadings of the parties were blurred, granted time to the parties to file affidavits to enable the Court to determine the issue and yet in spite thereof, we find that vide caption **(d)** under para 5, the Tribunal has held that it need not go into the said issue.

19. Indeed, we find no discussion by the Tribunal on the subject and thus we have two course of action to be adopted;

in the alternative to each. First, to remand the matter to the Tribunal for adjudication on the issue, which was the only issue to be decided by the Tribunal, or secondly to decide the issue ourselves.

20. We note that the selection process was over in the year 2000 and Dr.Sarkar had filed the writ petition in the year 2000 and it was this petition which got transferred to the Tribunal for adjudication. 10 years have gone by and rather than waste time of 2 senior professionals, who we feel ought to be spending their time and energy doing productive work and not in the corridors of Courts and Tribunals, we think we should decide the issue ourselves.

21. We have before us the syllabus pertaining to the M.Sc. course in Physiology as also the course leading to the degree M.D.(Physiology). We intend to contrast the two for the reason we find that M.Sc.(Physiology) has been prescribed as an eligible Masters' Degree for non-medical candidates but for medical candidates M.D.(Physiology) has not been specifically listed and the issue which we need to decide is whether M.D.(Physiology) can be treated as equivalent to M.D.(Reproductive Biology). Now, the post in question is of Professor(Reproductive Biology) and if a person holding a degree in M.Sc.(Physiology) would be eligible to be appointed as a Professor (Reproductive Biology), for purposes of equivalence of M.D.(Physiology) and M.D.(Reproductive Biology) it would be a relevant consideration to see the course content of M.Sc.(Physiology) and M.D.(Physiology). The course content shows that M.Sc.(Physiology) spans 4 semesters sweeping 2 years and M.D.(Physiology) also spans 4 semesters sweeping 2 years. We tabulate the course content for the 4 semesters with the left column showing the course content of

M.Sc.(Physiology) and the right column showing the course content of M.D.(Physiology). The tabulation reads as under:-

PHYSIOLOGY – M.Sc.	PHYSIOLOGY- MD
Themes and Topics (Semester I) (a) General & Cellular Physiology • Cell as the living unit of the body • The internal environment • Homeostasis • Control systems • Organization of a cell • Physical structure of a cell • Transport across cell membranes • Functional systems in the cells • Genetic code, its expression, and regulation of gene expression • Cell cycle and its regulation	Themes and Topics (Semester I) (a) General & Cellular Physiology • Cell as the living unit of the body • The internal environment • Homeostasis • Control systems • Organization of a cell • Physical structure of a cell • Transport across cell membranes • Functional systems in the cells • Genetic code, its expression, and regulation of gene expression • Cell cycle and its regulation
(b) Hematology • Erthocytes - erythropoiesis - structure & function of RBCs - formation of hemoglobin - destruction & fate of RBCs - anemias - polycythemias	(b) Hematology • Erthocytes - erythropoiesis - structure & function of RBCs - formation of hemoglobin - destruction & fate of RBCs - anemias - polycythemias

• Leucocytes - general characteristics - genesis & life span of WBCs - classification & functions of each type of WBC - leucopenia - leukemias • Blood groups - classification - antigenicity - agglutination - blood typing - principles of transfusion medicine • Hemostasis - components of hemostasis - mechanisms of coagulation - coagulation tests - anticoagulants • Immunity - Innate immunity - Acquired immunity - Allergy, hypersensitivity and immunodeficiency	• Leucocytes - general characteristics - genesis & life span of WBCs - classification & functions of each type of WBC - leucopenia - leukemias • Blood groups - classification - antigenicity - agglutination - blood typing - principles of transfusion medicine • Hemostasis - components of hemostasis - mechanisms of coagulation - coagulation tests - anticoagulants • Immunity - Innate immunity - Acquired immunity - Allergy, hypersensitivity and immunodeficiency
--	--

- Psychoneuroimmunology	- Psychoneuroimmunology
(c) Renal Physiology & Fluid Balance • Body fluid compartments • Water balance; regulation of fluid balance • Urine formation • Regulation of extracellular sodium & osmolarity • Renal mechanisms for the control of blood volume, blood pressure & ionic composition • Regulation of acid-base balance • Micturition • Diuretics • Renal failure	(c) Renal Physiology & Fluid Balance • Body fluid compartments • Water balance; regulation of fluid balance • Urine formation • Regulation of extracellular sodium & osmolarity • Renal mechanisms for the control of blood volume, blood pressure & ionic composition • Regulation of acid-base balance • Micturition • Diuretics • Renal failure
(Semester II) (a) Cardio-vascular Physiology • Properties of cardiac muscle • Cardiac cycle • Heart as a pump • Cardiac output • Nutrition & metabolism of heart • Specialized tissues of the heart • Generation & conduction of cardiac impulse • Control of excitation & conduction	(Semester II) (a) Cardio-vascular Physiology • Properties of cardiac muscle • Cardiac cycle • Heart as a pump • Cardiac output • Nutrition & metabolism of heart • Specialized tissues of the heart • Generation & conduction of cardiac impulse • Control of excitation & conduction

• Electrocardiogram • Arrhythmias • Principles of Hemodynamics • Neurohumoral regulation of cardiovascular function • Microcirculation & lymphatic system • Regional circulations • Cardiac failure • Circulatory shock (b) Respiration • Functional anatomy of respiratory system • Pulmonary ventilation • Alveolar ventilation • Mechanics of respiration • Pulmonary circulation • Pleural fluid • Lung edema • Principles of gas exchange • Oxygen & carbon-dioxide transport • Regulation of respiration • Hypoxia • Oxygen therapy & toxicity • Artificial respiration (c) Environmental Physiology • Physiology of hot environment • Physiology of cold	• Electrocardiogram • Arrhythmias • Principles of Hemodynamics • Neurohumoral regulation of cardiovascular function • Microcirculation & lymphatic system • Regional circulations • Cardiac failure • Circulatory shock (b) Respiration • Functional anatomy of respiratory system • Pulmonary ventilation • Alveolar ventilation • Mechanics of respiration • Pulmonary circulation • Pleural fluid • Lung edema • Principles of gas exchange • Oxygen & carbon-dioxide transport • Regulation of respiration • Hypoxia • Oxygen therapy & toxicity • Artificial respiration (c) Environmental Physiology • Physiology of hot environment • Physiology of cold
---	---

environment • High altitude • Aviation physiology • Space physiology • Deep sea diving & hyperbaric conditions	environment • High altitude • Aviation physiology • Space physiology • Deep sea diving & hyperbaric conditions
(Semester III) (a) Nerve & Muscle Physiology • Resting membrane potential • Action potential • Classification of nerve fibres • Nerve conduction • Degeneration and regeneration in nerves • Functional anatomy of skeletal muscle • Neuro-muscular transmission and blockers • Excitaton-contraction coupling • Mechanisms of muscle contraction • Smooth muscle (b) General, Sensory & Motor Physiology • General design of nervous system • Interneuronal communication • Classification of somatic senses • Sensory receptors • Sensory transduction	(Semester III) (a) Nerve & Muscle Physiology • Resting membrane potential • Action potential • Classification of nerve fibres • Nerve conduction • Degeneration and regeneration in nerves • Functional anatomy of skeletal muscle • Neuro-muscular transmission and blockers • Excitaton-contraction coupling • Mechanisms of muscle contraction • Smooth muscle (b) General, Sensory & Motor Physiology • General design of nervous system • Interneuronal communication • Classification of somatic senses • Sensory receptors • Sensory transduction

• Information processing • Dorsal column & medial lemniscal system • Thalamus • Somatosensory cortex • Somatosensory association areas • Pain • Organization of spinal cord for motor function • Reflexes & reflex arc • Brain stem & cortical control of motor function • Cerebellum • Basal ganglia • Maintenance of posture and equilibrium • Motor cortex (c) Special senses • Optics of vision • Receptors & neural functions of retina • Colour vision • Perimetry • Visual pathways • Cortical visual function • Functions of external and middle ear • Cochlea • Semicircular canals	• Information processing • Dorsal column & medial lemniscal system • Thalamus • Somatosensory cortex • Somatosensory association areas • Pain • Organization of spinal cord for motor function • Reflexes & reflex arc • Brain stem & cortical control of motor function • Cerebellum • Basal ganglia • Maintenance of posture and equilibrium • Motor cortex (c) Special senses • Optics of vision • Receptors & neural functions of retina • Colour vision • Perimetry • Visual pathways • Cortical visual function • Functions of external and middle ear • Cochlea • Semicircular canals
---	---

• Auditory pathways • Cortical auditory function • Deafness & hearing aids • Primary taste sensations • Taste buds • Transduction & transmission of taste signals • Perception of taste • Peripheral olfactory mechanisms • Olfactory pathways • Olfactory perception (d) Limbic System and Higher Nervous system • Autonomic nervous system • Limbic system and hypothalamus • EEG • Sleep • Emotions & Behaviour • Learning & Memory • Yoga	• Auditory pathways • Cortical auditory function • Deafness & hearing aids • Primary taste sensations • Taste buds • Transduction & transmission of taste signals • Perception of taste • Peripheral olfactory mechanisms • Olfactory pathways • Olfactory perception (d) Limbic System and Higher Nervous system • Autonomic nervous system • Limbic system and hypothalamus • EEG • Sleep • Emotions & Behaviour • Learning & Memory • Yoga
(Semester IV) (a) Nutrition & Metabolism • Carbohydrates • Fats • Proteins • Minerals • Vitamins	(Semester IV) (a) Nutrition & Metabolism • Carbohydrates • Fats • Proteins • Minerals • Vitamins

• Dietary fibre • Recommended Dietary Allowances • Balanced diet • Diet for infants, children, pregnant & lactating mothers, and the elderly • Energy metabolism • Obesity & Starvation (b) Gastro-intestinal System • General principles of G-I function • Mastication & swallowing • Esophageal motility • Salivary secretion • Gastric mucosal barrier • Pancreatic & biliary secretion • Gastrointestinal motility • Digestion & absorption • Functions of Colon • Pathophysiology of peptic ulcer and diarrheal disease • Liver functions (c) Endocrines & Reproduction • Classification of Hormones • Mechanism of Hormone action • Measurement of hormones in Blood • Endocrine functions of the hypothalamus	• Dietary fibre • Recommended Dietary Allowances • Balanced diet • Diet for infants, children, pregnant & lactating mothers, and the elderly • Energy metabolism • Obesity & Starvation (b) Gastro-intestinal System • General principles of G-I function • Mastication & swallowing • Esophageal motility • Salivary secretion • Gastric mucosal barrier • Pancreatic & biliary secretion • Gastrointestinal motility • Digestion & absorption • Functions of Colon • Pathophysiology of peptic ulcer and diarrheal disease • Liver functions (c) Endocrines & Reproduction • Classification of Hormones • Mechanism of Hormone action • Measurement of hormones in Blood • Endocrine functions of the hypothalamus
--	--

• Pituitary • Thyroid • Adrenals • The endocrine pancreas • Pathophysiology of diabetes • Parathyroid, calcitonin, Vit D & calcium metabolism • Pineal gland • Testosterone & male sex hormones • Spermatogenesis • Hyper & hypogonadism • Menstrual cycle • Female sex hormones • Pregnancy & Lactation • Functions of Placenta • Parturition • Lactation	• Pituitary • Thyroid • Adrenals • The endocrine pancreas • Pathophysiology of diabetes • Parathyroid, calcitonin, Vit D & calcium metabolism • Pineal gland • Testosterone & male sex hormones • Spermatogenesis • Hyper & hypogonadism • Menstrual cycle • Female sex hormones • Pregnancy & Lactation • Functions of Placenta • Parturition • Lactation
---	---

22. What have we discovered! Surprising! Complete identity in the two courses. Not a word of difference.
23. If this be so, do we not have relevant material before us to decide on equivalence?
24. ‘Physiology’ is the branch of ‘Biology’ concerned with the normal functions of living organisms and their parts. Reproduction in living organisms concerns the functions of the reproductive parts of the living organism and thus Reproductive Physiology is obviously covered under the umbrella of Physiology. As noted by us above, the charter of

the program which required the post of Professor(Reproductive Biology) to be created was the utilization of the grant by Ford Foundation to run the program of research and training in the Physiology of Reproduction and the program envisages coordination of work of various departments including those of Physiology, Obstetrics, Gynaecology, Biochemistry, Pharmacology and Biophysics. It is apparent that the functioning of the Professor(Reproductive Biology) is multi disciplinary and it assumes importance that admittedly no institute, college or university in India is awarding a degree in M.D.(Reproductive Biology).

25. We need not note and hence do not intend to make a catalog of decisions and suffice would it be to note only one i.e. the decision reported as 2008 (9) SCC 284 Rajbir Singh Dalal vs. Chaudhary Devi Lal University & Ors., which hold that matters of opinion of experts in the field of education and in particular whether a field of education is inter-related and inter-changeable with the other is best left for expert opinion and not to be a subject of forensic judicial debate.

26. It is settled law that unless an expert opinion is shown to be founded on a fundamental erroneous premise or it is shown that the expert has acted contrary to the accepted norms in the field; the accepted norms being the ones recognized by the experts in the field, judicial interference is to be avoided.

27. We note that no mala-fides have been alleged against anybody.

28. We note that the Selection Panel consisted of Subject Experts and they are men of eminence. We note that there is literature that Reproductive Biology is a very vast subject and covers different aspects of Reproductive Science

and includes Bio-Medical Science, Bio-Chemical Science, Life Science and Medical Science. It is for this reason we find that for non-medical category M.Sc.(Zoology), M.Sc.(Biology) and M.Sc.(Physiology) are specifically listed as eligible subjects.

29. We allow the writ petition and set aside the impugned order dated 14.10.2009 passed by the Tribunal and as a consequence we dismiss TA No.677/2009, but leave the parties to bear their own costs.

(PRADEEP NANDRAJOG)
JUDGE

(SIDDHARTH MRIDUL)
JUDGE

December 20, 2010
mm / dk