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NC: 2025:KHC-D:15529-DB
WA No. 100551 of 2024

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 13TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

WRIT APPEAL NO. 100551 OF 2024 (S-RES)

BETWEEN:

SRI VISHWANATH KULKARNI

AGE. 43 YEARS,

OCC. RADIOLOGIST/ASSISTANT PROFESSOR,

R/O. TQ. GADAG DIST. GADAG

...APPELLANT

(BY SRI ARAVIND D. UPADHYE, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF MEDICAL EDUCATION,
REPRESENTED BY ITS SECRETARY,
M.S. BUILDING, BENGALURU-560001.
2. GADAG INSTITUTE OF MEDICAL SCIENCES,
MALLASAMUDRA, GADAG-582103,
REPRESENTED BY
CHIEF ADMINISTRATIVE OFFICER DIRECTOR.
3. DIRECTOR,
GADAG INSTITUTE OF MEDICAL SCIENCES,
MALALSAMUDRA, GADAG-582103.



4. THE PRINCIPAL,
GADAG INSTITUTE OF MEDICAL SCIENCES,
MALLASAMUDRA, GADAG-582103.

5. THE PROFESSOR AND HEAD OF THE
DEPARTMENT,
GADAG INSTITUTE OF MEDICAL SCIENCES,
MALLASAMUDRA, GADAG-582103.

...RESPONDENTS

(BY SRI J.S. SHETTY, ADVOCATE FOR R3;
SRI G.K.HIREGOUDAR, PRL. GOVERNMENT ADVOCATE
FOR R1 AND R2)

THIS WRIT APPEAL IS FILED U/S.4 OF KARNATAKA
HIGH COURT ACT, 1961 PRAYING TO SET ASIDE THE
ORDER OF THE LEARNED SINGLE JUDGE MADE IN WP
NO.101433/2021 DATE. 18-09-2024 AND GRANT ALL THE
RELIEFS AS SOUGHT FOR IN THE WRIT PETITION AND
GRANT SUCH OTHER RELIEF/S AS THIS COURT DEEMS FIT
TO GRANT IN THE CIRCUMSTANCES OF THE CASE
INCLUDING COSTS, IN THE INTEREST OF JUSTICE.

THIS APPEAL, COMING ON FOR PRELIMINARY
HEARING, THIS DAY JUDGMENT WAS DELIVERED THEREIN
AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.



ORAL JUDGMENT
(PER: THE HON'BLE MR. JUSTICE S G PANDIT)

The appellant/petitioner before the learned Single Judge, is before this Court under Section 4 of the Karnataka High Court Act, 1961, questioning the order dated 18.09.2024 in Writ Petition No.101433/2021 wherein the petitioner's prayer to quash Annexure-'F'-Recruitment Notification dated 02.03.2021 insofar as it relates to the post of Associate Professor in the Department of Radiology in the 2nd respondent Institution as well as for a writ of mandamus to direct the respondent to appoint the petitioner to the post of Associate Professor in the Department of Radiology in the 2nd respondent Institution, is rejected.

2. Heard Sri. Aravind D. Upadhye, learned counsel appearing for the appellant/petitioner, learned Principal Government Advocate Sri. G.K. Hiregoudar and the learned counsel Sri. J.S. Shetty for respondent Nos.2 to 5.

3. The parties would be referred to as per their ranking before the learned Single Judge.



4. The petitioner approached this Court with the following prayer:

- a. Issue a writ in the nature of certiorari quashing impugned recruitment notification dated 02.03.2021 bearing No.GIMS/G/DRC/TF/20/2020-2021 vide Annexure-F issued by the respondent No.3 in so far as it relates to appointment of Associate Professor in the department of Radiology in 2nd respondent institution.
- b. Declare that the provisional list dated 27.09.2019 at paragraph No.5 marked at Annexure-D provisionally selecting the petitioner to the post of Associate Professor in the department of Radiology in 2nd respondent institution be to the extent of seeking approval Finance Department as null and void in the interest of justice and equity.
- c. Consequently issue Writ of Mandamus directing the respondents to appoint the petitioner to the post of Associate professor in the department of Radiology in 2nd respondent institution.
- d. The Finance Department be directed to accord approval to the Provisional list dated 27.09.2019 in respect of the selection of the petitioner as Associate Professor in the Department of Radiology in the 2nd respondent institution.
- e. Issue such other writ or give such other direction and pass such other order as this



Hon'ble Court deems fit and proper in the facts and circumstances of the cases.

5. It is the case of the petitioner that, in terms of Interview Notification on 12.09.2019, he applied for the post of Associate Professor in Radiology. After interview, it is stated that, in terms of Annexure-D-Provisional Selection List of Candidates, the petitioner was selected as an Associate Professor in Radiology under Roster Point earmarked for GMR. It is the grievance of the petitioner that, without there being any reason and without issuing the appointment order in pursuance to the Provisional Selection List published in terms of Annexure-D, the 2nd respondent institute issued a fresh recruitment Notification dated 02.03.2021 for two posts of Associate Professor in Radiology. Questioning the subsequent Recruitment Notification dated 02.03.2021, the petitioner was before this Court in the above said writ petition praying for the above extracted relief.



6. The learned Single Judge under Order dated 18.09.2024, which is impugned herein, dismissed the writ petition holding that respondent No.2 took decision to abandon recruitment process in pursuance of selection notification at Annexure-A, which cannot be colored as arbitrary or unreasonable. Questioning the said order of the learned Single Judge, the petitioner is before this Court in this appeal.

7. Learned counsel Sri. Aravind Upadhye for the petitioner/appellant would contend that the learned Single Judge failed to take into consideration the enquiry report dated 28.03.2023 which finds fault with the Notification dated 02.03.2021. The learned counsel would submit that, in the enquiry it is found that Roster Point is not properly notified while issuing the Recruitment Notification and he also submits that promotion given to one Dr. Rahul Shirol is also not proper, who had also applied for direct recruitment. Further, the learned counsel would submit that, the reason for abandonment of earlier Recruitment Notification on the



ground that there was no financial approval is wholly baseless and would not stand to reason. Learned counsel would submit that the subsequent recruitment Notification dated 02.03.2021 would not indicate as to whether there was financial approval from the Finance Department for the post of Associate Professor in Radiology or not. Thus, he would submit that only to see that the petitioner would not get the employment and to favour someone else, the earlier Notification was abandoned and fresh recruitment Notification dated 02.03.2021(Annexure-F) was issued. Thus, learned counsel would pray for allowing the writ appeal and to grant the prayer sought in the writ petition.

8. Per contra, learned counsel Sri. J.S. Shetty as well as learned Prl.GA Sri. G.K. Hiregoudar would submit that, the petitioner has no right for appointment, though his name finds place in the Provisional Selection List. Learned counsels would point out that, the Interview Notification dated 12.09.2019(Annexure-A) makes it clear that the



appointment for the post of Associate Professor in Radiology was subject to the pending approval of the Finance Department. It is submitted that, as the Finance Department had not given approval for the post of Associate Professor in Radiology, the Institution rightly took decision to abandon the recruitment process insofar as the post of Associate Professor in Radiology is concerned. Further, learned counsel Sri. J.S. Shetty would invite attention of this Court to the Government Order dated 09.02.2021 (Annexure-R-3) appended to the Statement of Objections to say that the Government, by the said order, accorded financial approval and also approved the post of Associate Professor in Radiology. He would also invite attention of this Court to the approval of Finance Department contained in the said Government Order. Thus, learned counsels would submit that taking note of the said approval, the subsequent recruitment notification dated 02.03.2021 (Annexure-F) was issued. With the above, the learned counsels pray for dismissal of the writ appeal.



9. Having heard the learned counsel for the parties and on perusal of writ appeal papers, the only point that would fall for consideration is as to whether interference by this Court is needed to the impugned order passed by the learned Single Judge.

10. The answer to the above point would be in the "negative" for the following reasons.

11. It is settled position of law that, a person whose name finds place in the Select List would not get right to appointment unless his juniors are appointed from out of such selection list. In the instant case, the interview Notification dated 12.09.2019(Annexure-A) wherein applications were invited for filling the posts of Associate Professor in Radiology and other subjects in the 2nd respondent-Gadag Institute of Medical Sciences indicates that the appointment to certain posts are subject to the pending approval of the Finance Department. The post of



Associate Professor in Radiology was also one of the subjects pending approval of the Finance Department. As the statement of objections of respondent No.2 indicates that the Finance Department failed to give approval for the said posts, the 2nd respondent institute took decision to abandon the said recruitment process insofar as Associate Professor in Radiology is concerned, which cannot be faulted with, when the petitioner participated in the selection process with open eyes to the condition that appointment to the post of Associate Professor in Radiology is subject to pending approval of Finance Department.

12. The material on record would indicate that subsequently the State Government by order dated 09.02.2021 approved the post of Associate Professor in Radiology to the 2nd respondent institute and the State Government Order also indicates approval of the Finance Department vide its Note dated 30.01.2021. Therefore, with the said approval, subsequent recruitment notification



dated 02.03.2021 (Annexure-F) was issued which cannot be faulted.

13. Learned counsel for the petitioner contended that the Government had ordered enquiry insofar as the recruitment process of the 2nd respondent institute under Interview Notification dated 12.09.2019 and Recruitment Notification dated 02.03.2021 and he also submits that without taking note of the said enquiry report, the learned Single Judge proceeded to dismiss the writ petition.

14. We have gone through the enquiry report which is placed on record along with the affidavit of the Principal Secretary to Government Department of Medical Institution dated 17.02.2023 filed before the learned Single Judge. On going through the said preliminary enquiry report dated 28.03.2023, it is seen that there is no finding with regard to irregularity in the recruitment process to the post of Associate Professor in Radiology subject. The enquiry



report would find some lapse in promotion of one Dr. Rahul Shirol to the post of Associate professor in Radio Diagnosis which would have no bearing on the selection process to the post of Associate Professor in Radiology.

15. It is noticed that the name of the petitioner found place in the Provisional Selection List in pursuance of subsequent Recruitment Notification dated 02.03.2021, but he was not selected in the final select list. It is also pointed out that the selection process in pursuance to the Recruitment Notification dated 02.03.3021 has already been completed. The appointment has also been made. The petitioner has not made the appointees as party to the present proceedings.

16. In the above circumstances, there is no merit in the writ appeal and accordingly, writ appeal stands rejected.



Since the appeal itself is disposed of, question of considering I.A.1/2024 for dispensation of production of English translation would not arise.

**Sd/-
(S G PANDIT)
JUDGE**

**Sd/-
(GEETHA K.B.)
JUDGE**

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