

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.01.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.41083 of 2016 and
WMP.NO. 35073/16 AND 252511/18

Dr.N.Srinivasa Ragavan, M.D., .. Petitioner

-vs-

1. Director General
Employees' State Insurance Corporation
Panchdeep Bhawan
Comrade Inderjeet Gupta (CIG) Marg
New Delhi 110 002
2. Joint Director (Recruitment)
Employees' State Insurance Corporation
Panchdeep Bhawan
Comrade Inderjeet Gupta (CIG) Marg
New Delhi 110 002
3. Deputy Director (Recruitment)
Employees' State Insurance Corporation
Panchdeep Bhawan
Comrade Inderjeet Gupta (CIG) Marg
New Delhi 110 002
4. Dr.M.V.Pradeep Kumar .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned select list dated 21.9.2016 issued by Respondent 3 and quash the same as unsustainable and direct the Respondent 1, 2 and 3 to consider the claim of the petitioner for the post of Professor, Forensic Medicine and to appoint the petitioner against the said post with due seniority with all service benefits.

For Petitioner:: Mr.S.Shunmugaraj
for M/s Chennai Law Firm

For Respondents:: Mr.T.N.C.Kaushik for R1 to 3
No appearance for R4

ORDER

Dr.N.Srinivasa Ragavan, M.D., who applied for the post of Professor (Forensic Medicine) in the ESIC PGIMSR & Medical College, Chennai, was called for the interview against a contractual vacancy under Roll No.161013 on 12.3.2015 and was selected and he has been serving on contract basis in the said post from 23.5.2016. In the meanwhile, when a regular vacancy arose, the petitioner sent a grievance petition to the PMO on 20.9.2015 explaining the grievance with regard to his non-selection to the post of Professor (Forensic Medicine) despite being the top scorer in the interview, as his candidature was all the time kept in the wait list. It is also his claim that he is a person with disability and his grievance was immediately attended by the ESIC under reference UQ No.z-11/12/1/2011-Med.IV dated 12.10.2015, wherein the Deputy Director (PG) had informed that the post was not reserved for the persons with disability. It is his further claim that when there was only one vacancy for the post of Professor (Forensic Medicine), the petitioner and Dr.M.V.Pradeep Kumar, the fourth respondent herein applied and after the selection process, Dr.M.V.Pradeep Kumar was selected, but he did not join. Therefore, the petitioner should have been considered for the said post. Since that has not been done, he has come to this Court.

2. The learned counsel for the respondents 1 to 3, filing a counter affidavit raising preliminary objection as to the maintainability of the writ petition, on the ground that the petitioner should approach the Central Administrative Tribunal under Section 3(q) of the Administrative Tribunals Act, submitted that the petitioner cannot come to this Court without exhausting the alternative remedy. He has also produced a list of organisations brought within the purview of the Central Administrative Tribunal, wherein the respondent-Employees' State Insurance Corporation also finds a place.

3. In view of the above, the writ petition is dismissed granting liberty to the petitioner to approach the Central Administrative Tribunal within a period of two weeks. The interim order passed by this Court on 23.11.2018 will continue for a period of two weeks. Consequently, W.M.P.Nos.35073 of 2016 & 25251 of 2018 are also dismissed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

ss

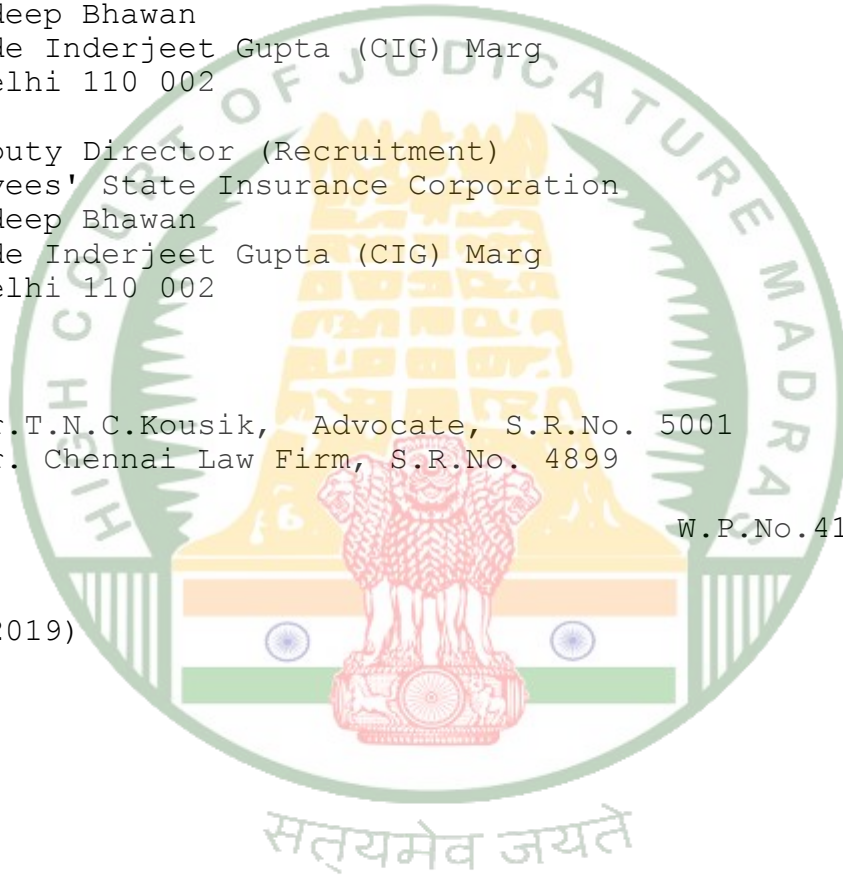
To

1. The Director General
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3. The Deputy Director (Recruitment)
Employees' State Insurance Corporation
Panchdeep Bhawan
Comrade Inderjeet Gupta (CIG) Marg
New Delhi 110 002

+1cc to Mr.T.N.C.Kousik, Advocate, S.R.No. 5001
+3cc to Mr. Chennai Law Firm, S.R.No. 4899

W.P.No.41083 of 2016

VG I(CO)
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