Item No.4-8

IN THE HIGH COURT OF MANIPUR
AT IMPHAL

WP(C) No. 177 of 2017 with
WP(C) No. 176 of 2017 with
WP(C) No. 178 of 2017 with
WP(C) No. 179 of 2017 with
WP(C) No. 1001 of 2018

Dr. NG. Javan

....Petitioner

-Versus-

JNIMS & 3 Ors.

....Respondents

BEFORE

HON'BLE MR. JUSTICE LANUSUNGKUM JAMIR

Order

01.06.2020

Heard Mr. N. Ibotombi, learned senior counsel assisted by Mr. Boboy Potsangbam, learned counsel appearing for the petitioner in WP(C) No. 177 of 2017, WP(C) No. 176 of 2017 and WP(C) No. 1001 of 2018. Also heard Mr. P. Tomcha, learned counsel for the petitioner in WP(C) No. 178 of 2017 and WP(C) No. 179 of 2017, Mr. Napolean, learned G.A. appearing on behalf of the respondent Nos. 1 & 2 and Mr. B. R. Sharma, learned counsel for the Medical Council of India (MCI) respondent No. 3.

As all the writ petitions have common cause of action and the reliefs sought for being identical, they are being disposed of by this common Order.

The petitioners in all the writ petitions are challenging the Order dated 25.10.2016 issued by the Director of Jawaharlal Nehru Institute of Medical Sciences (JNIMS), Porompat, Imphal West, Manipur by which the JNIMS earlier Order dated

06.08.2015 were cancelled and their appointment on promotion has been made with effect from 07.10.2016 as Associate Professor in the JNIMS in the pay scale of PB Rs. 37400 – 67000 + GP Rs. 7000. The petitioners are also praying for a direction to review the Orders dated 06.08.2015 in order to be appointed to the post of Associate Professor with effect from the date of eligibility. The further grievance of the petitioners in the writ petitions is that the Letters dated 30.06.2015, 22.07.2015 and 31.01.2016 written by one Dr. Seema Madan, Consultant (P.G.)/ respondent No. 4 in WP(C) No. 177 of 2017, is not the authorized person of the Medical Council of India (MCI).

It is the case of the petitioners that the Medical Council of India (MCI) by Letter dated 03.09.2015 had clarified that with regard to research publications in the matter of promotion for teaching faculty in a medical college/ institution. Further, clarification was issued by the Medical Council of India in its Letter dated 10.12.2015 that the MCI Circular dated 03.09.2015 will be applicable prospectively and only to those research papers/ promotions that have been published/ taken place after 03.09.2015.

The petitioners have also filed an additional affidavit dated 24.02.2020 before this Court annexing a Letter dated 12.02.2020 (Annexure A/ 20) and the said Letter is reproduced hereinbelow:

"BOARD OF GOVERNORS
IN SUPERSESSION OF MEDICAL COUNCIL OF INDIA

No. MCI-12(1)/2019-TEQ/ 189338-39 *Date: 12.02.2020*

The DGAFMS,
Ministry of Defense,
O/o DGAFMS/DG-1D,
'M' Block, New Delhi-01
Subject:- Clarification related to the Research Publications

Sir,

With reference to your letter No. 38217/NITI Aayog/ DGAFMS/DG-1D dated 05.09.2019, on the subject noted above, I am directed to inform you that the regulation regarding publications are given as below:

Type of Publications	*Before 24.07.2009*	*24.07.2009-02.11.2010*	*03.11.2010-02.09.2015*	*03.09.2015-07.06.2017*	*08.06.2017-onwards*
Research papers	*Any authorship*	*First author only*	*First or second author*	*First or second author*	*First or corresponding author*
Case series or case report	*-do-*	*-do-*	*-do-*	*Not accepted*	*Not accepted*
Review articles	*-do-*	*-do-*	*-do-*	*Not accepted*	*Not accepted*

- *With effect from 03.09.2015 only indexed journals (Circular No. MCI-12(1)/2015-TEQ/131880 dated 03.09.2015) are accepted. E-journals are not accepted.*

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- *The transition period for Professor is four years from 24.07.2009 to 24.07.2013 and for Assoc. Professor is also four years from 24.07.2009 to 24.07.2014.*
- *Thus the type of publications acceptable during transition period are given in the table above.*
- *It is further stated that the current regulations do not provide for relaxing regulations retrospectively, as a four years transition period has already been provided for.*

This issue with the approval of Competent Authority.

Yours faithfully,

(B.D. Jain)
Assistant Secretary."

Learned senior counsel for the petitioner submits that the Letter dated 12.02.2020 clearly indicates that the transition period for Professor is 4 (four) years from 24.07.2009 to 24.07.2013 and for Associate Professor is also 4 (four) years from 24.07.2009 to 24.07.2014 and the table in the Letter dated 12.02.2020 clearly

indicates the regulations regarding publications. In that view of the matter, he submits that the petitioners would be satisfied if a direction is issued to the respondent No. 1 to consider for reviewing of the Order dated 25.10.2016 by taking into consideration the clarifications dated 03.09.2015, 10.12.2015 and the Letter dated 12.02.2020.

Mr. Napolean, learned G.A. appearing on behalf of respondent Nos. 1 & 2 has no objections if such a direction is issued for consideration.

Considering the consensus arrived at by the learned counsel for the parties, all these writ petitions are accordingly disposed of by directing the respondent No. 1/ JNIMS to consider for reviewing the impugned Orders dated 25.10.2016 by taking into consideration the Clarifications dated 03.09.2015, 10.12.2015 & 12.02.2020 within a period of 45 (forty five) days from the date of receipt of a copy of the Order of this Court.

Furnish a copy of this Order to all the learned counsel appearing for the parties through their respective e-mails.

JUDGE

joshua

WAIKHOM TONEN MEITEI
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