

HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

**MONDAY, THE ELEVENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY THREE**

PRESENT

**THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO**

WRIT APPEAL NO.807 OF 2023

Writ Appeal under clause 15 of the Letters Patent Preferred Against the Order Dated 27-04-2023 in W.P.No.37039 of 2018 on the file of the High Court.

Between:

Dr. Uzma Viquar, W/o Mohd Anees Ahmed, Aged about 50 years, Occ Associate Professor Contractual, P. G. Department IlmuAdvia Central Research Institute of Unani Medicine, Erragadda, Hyderabad.

...APPELLANT/WRIT PETITIONER

AND

1. The Director, Department of Ayush State of Telangana 5th. Floor, TSGLI Building, Tilak Road, Abids, Hyderabad.
2. The State of Telangana, Rep. by its Principal Secretary to Government Health Medical and Family Welfare Department Secretariat Hyderabad
3. Dr. Wasefa Kaukab, D/o Mohammed Abdus Salam, Aged about 38 years, Occ Private Practice, R/o H No 17 3 3/1/96 Yakuthpura Colony Hyderabad 500023.

...RESPONDENTS/RESPONDENTS

IA NO: 2 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the impugned Judgment of the Learned Single Judge dated 27.04.2023 in WP.No.37039 of 2018 pending disposal of the Writ Appeal.

IA NO: 3 OF 2023

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to direct the official respondents No.1 and 2 not to fill up the post in question i.e. Assistant Professor issued in Notification dated 28.08.2018 pending disposal of the Writ Appeal.

Counsel for the Appellant: SRI J. SUDHEER

Counsel for the Respondent Nos. 1 & 2: GP FOR SERVICES-II

Counsel for the Respondent No.3: SRI C. SAI REDDY

The Court made the following: JUDGMENT

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI
AND
THE HON'BLE SRI JUSTICE NAMAVARAPU RAJESHWAR RAO

Writ Appeal No.807 of 2023

JUDGMENT: *(Per Hon'ble Sri Justice Abhinand Kumar Shavili)*

Aggrieved by the orders dated 27.04.2023 in W.P.No.37039 of 2018 passed by the learned Single Judge, the present Writ Appeal is filed.

2. Heard Mr. J. Sudheer, learned counsel for the appellant and the learned Government Pleader for Services-II appearing for the respondents.

3. Learned counsel for the appellant contended that the appellant is fully eligible and qualified to be appointed as a Lecturer (Unani) and the respondents have issued a notification on 28.08.2018 inviting applications for the post of Lecturer (Unani). Learned counsel for the appellant further contended that as per the notification, the selections are to be made on the basis of marks obtained in the qualifying examination and 5 marks for each completed year after passing qualifying examination, and another 20 marks are to be allocated towards service weightage for the service rendered on contract basis. Learned counsel for the

appellant had further contended that the appellant has worked in Unani Medical College from 2009 to 2015 and the appellant has worked as a Associate Professor in Central Research Institute of Unani Medicine from 2016 to 2018. However, the respondents have not awarded the service weightage marks to the appellant on the ground that the appellant has not worked in the State Government Medical college. Aggrieved by the action of the respondents in not granting the service weightage marks though the appellant has worked on contract basis as a Associate Professor in Central Research Institute of Unani Medicine. The appellant has approached this Court by filing W.P.No.37039 of 2018 and the learned Single Judge was pleased to dismiss the writ petition vide orders, dated 27.04.2023 by clubbing the writ petition along with W.P.No.34383 of 2018 without appreciating any of the contentions raised by the appellant.

4. Learned counsel for the appellant further contended that the facts in the present case are different from that of the facts in W.P.No.34383 of 2018 and the learned Single Judge ought to have adjudicated the matter individually in spite of clubbing W.P.No.37039 of 2018 along with some

other writ petition, which is not at all connected with the case of the appellant. Therefore, appropriate orders be passed in the writ appeal by setting aside the orders passed by the learned Single Judge in W.P.No.37039 of 2018, dated 27.04.2023, and further direct the respondents to consider the case of the appellant for awarding service weightage marks and for appointment to the post of Lecturer (Unani) in pursuant to the notification, dated 28.08.2018.

5. On the other hand, learned Government Pleader for Services-II for the respondents had contended that the service weightage marks are liable to be awarded based upon the policy of the State Government taken in G.O.Ms.No.61, dated 29.06.2018, wherein, the contractual service has been defined as the services rendered by the AYUSH Doctors who were working in Rashtriya Bal Swasthya Karyakram (RBSK), ESI Hospital and other Telangana State Government Departments/ Telangana State owned Public Enterprises. As admittedly, the Central Research Institute of Unnani Medicine is not there in the said G.O., therefore, the respondents are justified in not awarding marks to the appellant as the appellant has

rendered service in Central Research Institute of Unani Medicine. If the appellant is aggrieved, he should have challenged the G.O.Ms.No.61, dated 29.06.2018 and as long as the said G.O is in existence, the case of the appellant cannot be considered for service weightage marks and the learned Single Judge has rightly dismissed the case by holding that the appellant has not challenged G.O.Ms.No.61, dated 29.06.2018. Therefore, there are no merits in the writ appeal and the same is liable to be dismissed.

6. This Court having considered the rival submissions made by both the parties is of the view that as long as G.O.Ms.No.61, dated 29.06.2018, is in force, the request of the appellant cannot be entertained. Therefore, this Court is of the view that the learned Single Judge has rightly dismissed the writ petition, however, this Court is of the view that if the appellant is aggrieved by G.O.Ms.No.61, dated 29.06.2018, then the appellant must challenge the said G.O, and the orders passed by the learned Single Judge further will not come against the said G.O without the appellant challenges the said G.O.

7. With the above said observations, the Writ Appeal is closed, however, liberty is given to the appellant to challenge G.O.Ms.No.61, dated 29.06.2018. No costs.

8. As a sequel, miscellaneous applications pending if any, shall stand closed.

SD/- CH. VENKATESHWARULU
DEPUTY REGISTRAR

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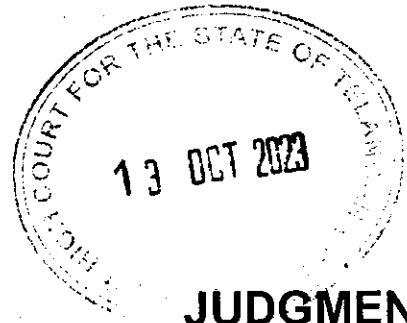
To,

1. One CC to SRI J. SUDHEER, Advocate [OPUC]
2. Two CCs to GP for Services-II, High Court for the State of Telangana at Hyderabad. [OUT]
3. One CC to SRI C. SAI REDDY, Advocate [OPUC]
4. Two CD Copies

MP
GJP

HIGH COURT

DATED:11/09/2023



JUDGMENT

WA.No.807 of 2023

**CLOSING THE WRIT APPEAL
WITHOUT COSTS**

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