

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4415/2011

MANISH SHARMA

APPELLANT (S)

VERSUS

DIRECTOR, DEPARTMENT OF MEDICAL EDUCATION
AND RESEARCH

RESPONDENT (S)

J U D G M E N T

KURIAN, J.

The appellant aspires promotion to the post of Assistant Professor, Anesthesiology under the respondent. He apprehends that on account of the impugned order passed by the High Court, he will not be considered for the post. Presently, he is working as Senior Resident under the respondent. According to the appellant, the two years Post-Graduate Diploma possessed by him is a sufficient qualification in terms of the Recruitment and Promotion Rules. The relevant rule on essential qualifications reads as under:-

"Essential qualification:

(i) A recognized medical qualification included in the first or second Schedule or Part-II of the third Schedule (other than Licentiate qualification) to the Indian Medical Council Act, 1956. Holders of Educational Qualification included in Part-II of the Third Schedule should also fulfill the conditions stipulated in sub-section (3) of Section 13 of Indian Medical Council Act, 1956.

(ii) A post graduate degree in the concern specialty mentioned in Part-A of Annexure-II or its equivalent qualifications.

(iii) At least 3 years teaching experience as Lecturer/Registrar/ Demonstrator/Resident after doing post graduation in the concerned specialty in any recognized Medical College."

2. The dispute is on the equivalency. According to the appellant, the two years Post-Graduate Diploma possessed by him is equivalent to the Post-Graduate Degree in the speciality. It appears nobody has considered this aspect of the matter. The High Court in the impugned order followed an earlier judgment in CWP(T) No.15787/2008 decided on 20.11.2009 titled Dr. Manish Sharma v. State of Himachal Pradesh & Others, wherein the High Court took the view that the Post-Graduate Diploma cannot be treated as Post-Graduation qualification. It was also noted that the petitioner did not have sufficient length of experience.

3. Be that as it may, the question is whether the Post-Graduate Diploma possessed by the appellant is equivalent to the prescribed qualification of a Post-Graduate Degree in Anaesthesiology. The same needs to be decided by a competent authority, in terms of the Rules.

4. We, therefore, dispose of this appeal, directing the respondent/competent authority to take a decision, in terms of the applicable Rules, whether the two year Post-Graduate Diploma possessed by the appellant is equivalent to the Post-Graduate Degree in Anaesthesiology.

5. The decision, as above, shall be taken within a period of one month from the date of production of a copy of this judgment before the respondent.

6. We make it clear that the impugned order and the order dated 20.11.2009, referred to above, shall not stand in the way of the competent authority, taking a decision, as above.

7. Pending application(s), if any, shall stand disposed of.

8. There shall be no orders as to costs.

.....J.
[KURIAN JOSEPH]

.....J.
[A.M. KHANWILKAR]

NEW DELHI;
FEBRUARY 01, 2017.

SUPREME COURT OF INDIA



JUDGMENT