

Commissioner/Secretary to Government Health & Medical Edu. Deptt. Civil Sectt., Jammu

Vs

Dr. Ashok Kumar Kohli

Civil Appeal No. 10403 of 1995

(K. Ramaswamy, B. L. Hansaria JJ)

30.10.1995

ORDER

1. Leave granted.

2. We have heard the counsel on both sides. We are concerned in this appeal with clause (i) of the Order dated 29-5-1995, namely, "the Commissioner-cum-Secretary to Government, Health and Medical Education Department, Jammu shall present himself in the court on the next date to inform the court as to why and for what reasons the court order has not been complied with". With regard to clause (ii) of the Order, we are not interfering.

3. It would appear that Dr Ashok Kumar Kohli was one of the candidates selected by the Jammu and Kashmir Public Service Commission and stood at No. 4 in the select list. He was not appointed to the post of Lecturer in Ophthalmology Department of Jammu and Kashmir. He sought a writ of mandamus in WP No. 458 of 1994. Pending disposal of the writ petition, certain directions seem to have been issued by the High Court and for its non-compliance, the above order came to be passed. For his entitlement to be appointed to the post pursuant to the selection made by the Public Service Commission, Dr Ashok Kumar Kohli has taken the stand that the select list had not lapsed while the Government's stand is that the list stood lapsed with the expiry of one year. Since the writ petition is pending, we are not expressing any opinion on merits. Suffice it to say that since the controversy is yet to be decided, perhaps the High Court may not be justified in calling upon the Government to implement the interim direction. In other words, it would amount to overreaching the main relief which, ultimately may or may not be passed in the writ petition. The aforesaid directions stand set aside and the second direction not to make any appointment to a post of Lecturer in Ophthalmology Department in any of the medical colleges pending disposal, stands confirmed. The High Court is requested to dispose of the writ petition as expeditiously as possible preferably within a period of six weeks from the date of the receipt of this order. The appeal is accordingly disposed of. No costs.