

(2004) 01 RAJ CK 0040
In the Rajasthan High Court
Case No : Civil Writ Petition No. 2911 of 2003

Chandra Mohan Sharma (Dr.)	Vs	APPELLANT
State of Rajasthan and Another		RESPONDENT

Date of Decision : 20-01-2004

Acts Referred:

Rajasthan Medical and Health Service (Collegiate Branch) Rules, 1962 — Rule 12, 23, 24, 24A, 25

Citation : (2004) 3 RLW 1621 : (2004) 2 WLC 9

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Advocate : Ajay Rastogi, for the Appellant; S.M. Mehta, General and Parineetu Jain, Paras Kuhad and Mahendra Singh, for the Respondent

Final Decision : Allowed

Judgement

Ashok Parihar, J.—The petitioner, on recommendations of the Rajasthan Public Service Commission (RPSC), was appointed on the post of Lecturer in the speciality of Neurology vide order dated 7.1.1991. On recommendations of the Departmental Promotion Committee (DPC), the petitioner was further promoted to the post of Reader (Neurology) vide order dated 7.3.1995. Respondent No. 2 (Dr. Ashok Pangariya) on the other hand, entered the services as Lecturer in General Medicine on recommendations of the RPSC vide order dated 13.2.1979. The respondent No. 2 (Dr. Ashok Pangariya) was further promoted to the post of Reader in General Medicine against the quota of 1988-89 vide order dated 5.6.1989 and to the post of Professor in General Medicine against the quota of 1994-95 vide order dated 24.1.1995 as per recommendations of the DPC.

(2). Though certain Super Specialities in the field of Medicine had been created way back in the year 1984-85, however, as per the policy decision of the State Government, separate Departments in the Super Specialities of Cardiology, Nephrology, Neurology and Gastro-enterology were created vide order dated 22.6.1995. Those doctors working in the above departments were ordered to be

continued as such in the newly created departments till further orders. By yet another order dated 26.6.1995 options were called from the Professors and Associate Professors working in the department of General Medicine and having qualifications in the concerned Super Specialities for their adjustment/absorption on the same post in the newly created departments of Super Specialities. Having received the option, the respondent No. 2 (Dr. Ashok Pangariya) was re-designated as Professor (Neurology) vide order dated 14.8.1995. Challenging the orders dated 26.6.1995 as also the order dated 14.8.1995 passed in favour of the respondent No. 2 (Dr. Ashok Pangariya), the present writ petition has been filed with the following prayers:-

"i. The Hon"ble Court may kindly be pleased to call the entire record of the case and after examining the same be pleased to quash and set aside the order dated 26th June, 1995 and 14th August, 1995 and the respondents may be directed to consider the candidature of the Petitioner for the post of Professor of Neurology from the date he attained eligibility with all consequential benefits.

ii. If any prejudicial order to the interest of the petitioner is passed during the pendency of the writ petition, the same may kindly be taken on record and be pleased to quash and set aside.

iii. Any other appropriate writ, order or direction, which this Hon"ble Court may be considered just and proper in the facts and circumstances of the case may kindly be passed in favour of the petitioner."

(3). After issuing show cause notices, respective replies have been filed on behalf of the State Government as also the respondent No. 2.

(4). Mr. Rastogi, learned counsel for the petitioner, while referring to various clauses of the Rajasthan Medical Service (Collegiate Branch) Rules, 1962 (the Rules of 1962), submitted that the only mode for entering into service under the above rules is either by direct recruitment or through regular promotion. Though, there is a provision for ad hoc temporary appointment but that also has certain limitations. In absence of any specific rule in regard to absorption/re-designation, the impugned orders are palpably illegal and void ab initio. The respondent No. 2 (Dr. Ashok Pangariya), right from the beginning, or to say, in the year 1984 had been trying to get himself inserted in the speciality of Neurology, however, having failed to get the desired relief, this novel method has been adopted for getting the post of Professor (Neurology) by re-designation.

(5). It has further been submitted by Mr. Rastogi that right upto the year 1995 there has been a clear stand-of the State Government that no such re-designation can be permitted until and unless necessary amendments are made in the Rules, as such, the action taken by the State Government calling option for re-designation of the respondent No. 2 as Professor (Neurology) from the post of Professor (General Medicine) was absolutely de hors the rules. Countering the objection in regard to delay in filing the writ petition, Mr. Rastogi submitted that the petitioner became eligible for promotion to the post of Professor (Neurology)

only in the year 2000 and after making proper representations to the concerning authorities the present writ petition has been filed.

(6). Mr. Paras Kuhad, learned counsel for the respondent No. 2 (Dr. Ashok Pangariya) and Mr. Mahendra Singh, concluding the arguments of Mr. Kuhad, while referring to various judgments of the Supreme Court, raised a strong plea of delay in challenging the impugned orders in the present writ petition. It has also been submitted that creation of Super Specialities by the State Government in the four subjects have already been upheld by this Court. Heavy reliance was placed on the judgments of this Court in the case of Dr. L.C. Sharma v. State of Rajasthan and Ors. (1), and Dr. Usha Rani Narayan v. State of Rajasthan and Ors. (2), and other connected appeals. Counsel for the respondent No. 2 also tried to challenge even the initial appointment of the petitioner. It has further been submitted by learned counsel for the respondent No. 2 that been a policy decision of the State Government the same could not have been challenged in a court of law.

(7). Mr. Sagar Mal Mehta, learned Advocate General appearing on behalf of the State of Rajasthan, took similar objections as taken by the learned counsel for the respondent No. 2 in regard to delay and latches and that the policy decision of the State Government not to be challenged before a court of law.

(8). After having considered rival submissions of the learned counsel for the parties, I have carefully gone through the pleadings, relevant rules as also the judgments cited at the Bar.

(9). The services of the teachers working in the Medical Colleges in the State are governed by the Rajasthan Medical Service (Collegiate Branch) Rules, 1962. Rule 5 thereof provides for initial constitution of service. Rule 6 refers to composition and strength of the service, which is reproduced hereasunder:-

"6. Composition and Strength of the Service.-(1) "The Service shall consist of three wings viz. Clinical, Non clinical and General," The right of promotion shall be confined to each wing.

(2) The nature of posts included in each wing shall be specified in column 2 of the Schedule.

(3) The strength of posts in each grade shall be such, as may be determined by Government, from time to time, provided that Government may-

(a) create any post, permanent or temporary, from time to time as the case may be found necessary, and

(b) leave unfilled or hold in abeyance or abolish any post, permanent or temporary, from time to time without thereby entitling any person to any compensation."

(10). Rule 7 of the Rules provides for recruitment which is either by direct recruitment (in accordance with Part IV of the Rules); and by promotion of

(substantive) members of Service in accordance with Part V of these Rules. Academic and Technical qualifications in the initial entry are provided under Rule 12 which is also reproduced hereasunder:-

"12. Academic & Technical qualifications:-The candidate for direct recruitment to the posts specified in "Part A, B and C of Schedule I" shall possess such academic and technical qualifications and experience as is laid down, from time to time, by the Rajasthan University for the teaching staff in Medical Colleges.

The candidates for direct recruitment to the post specified in Schedule II shall possess the academic and technical qualifications and experience as laid down in column 6 of Schedule II."

(11). Part V of the Rules include procedure for promotion. Yet another Rule which may be relevant here is Rule 25 in regard to appointment of senior and selection posts which is reproduced hereasunder:-

"25. Appointment to Senior and Selection Posts:- Appointment to senior and selection posts shall be made by Government by direct recruitment or promotion in the proportion given in column 3 of the Schedule. Promotion shall be from amongst the Members of the Service in accordance with the selection having been made on the basis of seniority-cum-merit and merit in accordance with the rules 24 and 24A.

Provided that if Government is satisfied in consultation with the Commission that no suitable officer is available in the Service for promotion to any senior or selection post or posts, Government may resort to direct recruitment through the Commission or appoint an officer on deputation from the Government of India, or any other State Government or by re-employment of a retired member of the Service: Provided further that appointment on deputation or by re-employment shall not exceed a period of 2 years without the concurrence of the Public Service Commission."

(12). It is only under Rule 30 that urgent temporary appointment can be made, which is also reproduced hereasunder:-

"30. Urgent Temporary Appointment: (1) A vacancy in the Service which can not be filled in immediately either by direct recruitment or by promotion under the rules may be filled in by the Government or by the Appointing Authority, as the case may be, by appointing in an officiating capacity thereto an officer eligible for appointment to the post by promotion or by appointing temporarily thereto a person eligible for direct recruitment to the Service, where such direct recruitment has been provided under the provisions of these Rules;

Provided that such an appointment will not be continued beyond a period of one year without referring the case to the Commission for concurrence, where such concurrence is necessary, and shall be terminated immediately on its refusal to concur.

Provided further that in respect of the Service or a post in the Service for which both the above methods of recruitment have been prescribed, the Government or the authority competent to make appointment, as the case may be, shall not, save with the specific permission of the Government in the Department of Personnel in the case of State Service and Government in the Administrative Department concerned in respect of other services, fill the temporary vacancy against the direct recruitment quota by a whole-time appointment for a period exceeding three months, otherwise than out of persons eligible for direct recruitment and after a short-term advertisement.

In the event of non-availability of suitable persons fulfilling the requirements of eligibility for promotion, Government may notwithstanding the condition of eligibility for promotion require under Sub-rule (1) above, lay down general instructions for grant of permission to fill the vacancies on urgent temporary basis subject to such conditions and restrictions regarding pay and other allowances as it may direct. Such appointments shall, however, be subject to concurrence of the Commission as required under the said sub-rule."

(13). As per Schedule appended to the Rules the post of Professor and Additional Professor, which have been treated as Selection posts, are to be filled in 100% by promotion from the post of Readers. The post of Readers, which have been treated as Senior Posts, are also to be filled in 100% by promotion from the post of Lecturer. Whereas, the post of Lecturers, which are treated as Junior Posts, have to be filled in 100% by direct recruitment.

(14). The criteria for promotion in the Super Specialities referred to above, was provided in the University of Rajasthan Hand-Book, which was accordingly revised by the Syndicate vide its Resolution dated 10.3.1984. Relevant portion so far as Super Specialities of Neurology is concerned is quoted hereunder:-

NEUROLOGY a) Professor D.M. (Neurology) As Reader in Neurology for 5 years in a Medical College. b) Reader -do- As Lecturer in Neurology for 4 years in a Medical College. c) Lecturer -do- Requisite recognised Post graduate qualification in the subject. (15). The present case appears to have a checkered history. As has already been referred to above, respondent No. 2 (Dr. Ashok Pangariya) was initially appointed as Lecturer in General Medicine through RPSC vide order dated 13.2.1979. He was promoted as Reader in General Medicine in 1989 and, subsequently, was promoted as Professor in General Medicine in the year 1995. However, with the creation of Super Specialities, he appears to have tried to get his regular absorption in the Super Speciality on permanent post in the year 1984 itself. After creation of Super Specialities in the four subjects though an advertisement was issued by the RPSC for the post of Lecturer in Neurology on 2.1.1985, however, for one reason or the other, the selections were postponed and respondent No. 2 (Dr. Ashok Pangariya) along with Dr. A Saifee, who were holding substantive post in their parent department of General Medicine, were re-designated as Lecturer in Neurology vide order dated 13.9.1985. The above order came to be challenged by one Dr. Bhikam Chand

Mehta before this Court. This court, while allowing the writ petition; SB Civil Writ Petition No. 344/1986, decided on 16.1.1991 1991(2) WLC 292, set aside the order dated 13.9.1985 by which both the above doctors were appointed as Lecturer in Neurology by way of adjustment/re-designation. While referring to provisions of relevant rules, the Court observed that the entire process of selection has been circumvented by the State Government in order to accommodate these persons who were already working as Lecturers in General Medicine.

(16). In spite of the judgment of this Court in the case of Dr. Bhikam Chand Mehta (supra), the respondent No. 2-Dr. Ashok Pangariya, some-how, continued to work as Lecturer in Neurology. However, Dr. A Saifee, though already working as Lecturer (General Medicine) through proper selection by the RPSC, again applied for the post of Lecturer (Neurology) and, on recommendations of the RPSC, was appointed as Lecturer (Neurology) vide order dated 24.11.1990. Dr. A Saifee was further promoted to the post of Reader (Neurology) vide order dated 7.3.1995 and promoted as Professor (Neurology) vide order dated 29.2.2000 on recommendations of the DPC. The petitioner could not be promoted as Professor (Neurology) along with Dr. A Saifee since the other post of Professor (Neurology) was held by the respondent No. 2-Ashok Pangariya.

(17). Respondent No. 2-Dr. Ashok Pangariya, in the year 1992, again tried to get the substantive post of Professor in Neurology after retirement of Professor B.M. Sharma by way of filing a writ petition before this court with the following prayers:-

"a) the respondents may be directed to fill the post of Professor in Neurology by promoting thereto only a person who belongs to the Super Speciality Unit of Neurology;

b) that the respondents may be restrained from filling up the post of Professor in Neurology which has become vacant consequent to the retirement of Professor B.M. Sharma by promoting thereto any person from the General Medicine Group;

c) the petitioner may be declared eligible and entitled for promotion to the post of Professor in Neurology and the respondents may be directed to consider the petitioner for regular promotion to the said post of Professor in Neurology;

d) In the alternative it is prayed that the respondents may be directed to promote the petitioner under Rule 30 on ad hoc/officiating basis by relaxing the experience criteria till the petitioner attains the requisite experience on the post of Associate Professor in case the experience so prescribed by the Rajasthan University is held to be mandatory for regular promotion;

e) any other appropriate writ, order or direction which may be considered just and proper in the facts and circumstances of the case may also be passed in favour of the petitioner."

(18). In the above SB Civil Writ Petition No. 3308/1992 the State Government

submitted a detailed reply. The reply filed on behalf of the State Government in the above writ petition of the respondent No. 2-Dr. Ashok Pangariya makes an interesting reading and some of the relevant portions are reproduced hereunder:-

"5. there are two stages in which the separate Super Speciality Department in the Medical College could be established. In the first stage the Super Speciality Units were created and thereafter the Super Speciality Department could be created as an independent department. Again it needs to be emphasized creation of Super Speciality unit is being done for the hospital attached to the Medical College with the objective of better and specialised patient care, while the development of separate Super Speciality Department takes place on academic side in the medical college. While the creation of super speciality unit in the hospital is purely on administrative matter and has worthy cause of providing speciality treatment facility to the patient by qualified super speciality doctors, the development of super speciality department in the Medical college is an academic creation in which the involvement not only of the State Government is sufficient but also that of the affiliating Rajasthan University and Medical Council of India is also necessary. It is however, not disputed that a decision has been taken to commence the D.M. Course in Neurology in S.M.S. Medical College (and not in S.M.S. Hospital as has been stated by the petitioner). But the said D.M. Course in Neurology is yet to start and the entire issue of starting D.M. Courses in Super Specialities are still under consideration.

6. It is also admitted that vide order dated 7.11.1984 one post of Lecturer in Medicine was converted into Lecturer in Neurology. The requisition for filling this post by direct recruitment by Rajasthan Public Service Commission in the month of November, 1984, But subsequently the said requisition was stayed in the month of May, 1985, the information of which was sent to the Rajasthan Public Service Commission. Thereafter the said posts which came into existence in the month of Nov., 1984 were filled up by redesignating person already working as Lecturers in Medicine and who were having the requisite qualification for selection on the post of Lecturer in Neurology. However, it is necessary to mention here that this arrangement/re-designation made by the State Government was challenged before this Hon''ble Court by writ petition No. 344/86 (Dr. Bhikam Chand v. State of Rajasthan and Ors.). The said writ petition was decided by the Hon''ble High Court on 16.1.1991 in which the Hon''ble High Court did not approve the said arrangement/re-designation of Lecturers in Medicine to the post of Lecturers in Medicine to the post of Lecturers in Medicine to the post of Lecturers in Neurology as was made by the Government in September, 1985. As a result of which the R.P.S.C. was also directed by Hon''ble High Court to hold interviews of the person who had applied for the post of Lecturers in Neurology in pursuance to the advertisement dated 2.1.1985 and it was further directed that the result of the interviews should be conveyed to the State Government within a period of 6 months from the date of the decision. As such the interview were accordingly held by Rajasthan Public Service

Commission in the year 1991 but the petitioner (Dr. Ashok Pangariya) did not choose to appear in the said interview for the reasons best known to him. Presumably because by that time as has been admitted by the petitioner (Dr. Ashok Pangariya) in the subsequent para No. 8 he was promoted as Reader in General Medicine vide Annexure-3.

10. the fact of retirement of Dr. B.M. Sharma is not disputed. However, Annexure-14 which has been referred to in this para clearly shows that the copy of the said Annexure-14 was addressed to the Professor and Head of the Department Medical College with the direction that Dr. B.M. Sharma may be asked to hand over the charge to the next senior officer and it does not refer to the petitioner (Dr. Ashok Pangariya) at all. This also implies that in fact the Neurology Department does not have a separate independent existence and continue to be part of General Medicine Department. It is further submitted that however on the retirement of Dr. B.M. Sharma, the petitioner (Dr. Ashok Pangariya) without any express order in his name assumed charge of Dr. B.M. Sharma who was designated as Professor of Neurology in S.M.S. Hospital, Jaipur. However when the copy of the said letter of handing over the charge was received in the Secretariat, Medical and Health Deptt., Government of Rajasthan, Jaipur an objections was raised vide letter dated 20.4.1991 (copy enclosed as Annexure-R/2) to the Principal, S.M.S. Medical College, Jaipur with a copy to the petitioner (Dr. Ashok Pangariya) to the effect that the Principal, was directed to allow the petitioner (Dr. Ashok Pangariya) to look after the work of the Neurology unit in SMS Hospital, Jaipur and he was not directed to ask the petitioner (Dr. Ashok Pangariya) to take over the charge of Professor from Dr. B.M. Sharma. To this objection the petitioner (Dr. Ashok Pangariya) himself realised the position and admitted that his intention was only to take charge of Neurology Unit.....

17. (iv) As per the Rule 23 of the Rajasthan Medical Service (Collegiate Branch) Rules, 1962, the requirement of the qualifications prescribed by Rajasthan University in the matter of appointment to the senior post such as Professor is not only recommendatory in nature but the same is mandatory. It is also submitted that Rule 30 of the Rajasthan Medical Service (Collegiate Branch) Rules, 1962 does not provide for relaxation for filling up of the posts substantively but it allows fill up the posts for ad-hoc/promotion, if the post is likely to be filled up immediately either by direct recruitment or by promotion and this relaxation too is available only to the persons eligible for appointment/promotion on the post having the requisite experience. As the petitioner (Dr. Ashok Pangariya) belongs to the Speciality of General Medicine therefore, he is not entitled for appointment on the post of Professor in Neurology which department is yet to be established

(19). Similar stand, more or less, was taken by the State Government in the writ petition filed by one Dr. Surendra Kumar Pareek in SB Civil Writ Petition No. 5719/1993. Dr. Surendra Kumar Pareek had made the following prayers:-

"It is, therefore, prayed that your Lordships be pleased to call for and examine

the entire record relating to this case and by an appropriate writ, order or direction:-

(i) declare that the petitioner be treated and be deemed to have been appointed as Lecturer in Nephrology, Reader in Nephrology and Professor in Nephrology w.e.f. 5th April, 1975 (or 4th June 1980), 23rd November 1984 and 14th December, 1990 respectively.

(ii) Respondent be directed to modify the order dated 14th December, 1990 and 5th June, 1989 by specifying the promotion of the petitioner to the post of Professor and Reader in Nephrology instead of Professor and Reader in General Medicine.

(iii) The respondents be directed to formally declare the Nephrology as separate department and invite options from the petitioner and other existing qualified Lecturer/Reader/Professor for absorption/transfer for Nephrology department.

(iv) Respondent state be directed to frame appropriate rules for absorption/transfer/deemed appointment of qualified Lecturer/Reader/Professor from Department of General Medicine to the Department of Nephrology as per proposed draft or otherwise.

(v) Respondent State may be restrained to accord promotion to any person on the post of Reader/Professor in Nephrology till appropriate Rules are framed and existing qualified Readers/Professors are absorbed/transferred in the Department of nephrology.

(vi) Respondent be directed to allow the petitioner to discharge the duties of Professor in Nephrology until aforesaid relief is granted to the petitioner.

(vii) Any other relief to which the petitioner is found entitled be granted.

(viii) The writ petition be allowed with costs."

(20). The reply filed on behalf of the State on 24.8.1994 in the above writ petition filed by Dr. S.K. Pareek clearly stated that absorption by re-designation could not be permitted under the relevant rules until and unless necessary amendments in the Rules are made which are still under consideration of the State Governments.

(21). Filing of the reply by the State in case of Surendra Kumar Pareek on 24.8.1994 was the point where again things moved swiftly and fast in the corridors of the Secretariat. A Committee was constituted consisting of Principal Secretary, Home, Principal Secretary, Medical & Health and Secretary, Personnel to consider the issue of creating Super Specialities in Medical Colleges. The said Arun Kumar Committee, which submitted the report on 5.9.1994, was placed before the Cabinet. It was only after decision communicated on 4.6.1994, the recommendations in regard to creation of separate departments of Super Specialities in Medical Colleges were accepted, however, with the observations to examine the matter as to whether any amendment in the Rules is required for

implementation of the decision. From the original file of the State Government, as produced by the learned Advocate General, it appears that without further seeking any legal opinion in regard to necessary amendment in the Rules, the impugned order dated 26.6.1995 calling for options and consequential re-designation of respondent No. 2 vide order dated 14.8.1995 were passed. Having got the required benefit the writ petition No. 3302/1992 filed by respondent No. 2 (Dr. Ashok Pangariya) was dismissed as withdrawn vide order dated 4.9.1995. The order reads as under:-

"Mr. Mahendra Singh appearing for the petitioner wants to withdraw this petition in view of the subsequent event. Mr. VL Mathur, counsel for respondents No. 3 & 4 states that the petitioner has concealed material facts from this Court as his appointment as Lecturer was cancelled in a writ petition filed at Principal Seat at Jodhpur and this fact was deliberately concealed, as such, heavy cost be seddled on the petitioner.

As the petitioner wants to withdraw this petition, the petition is dismissed as withdrawn. No order as to costs."

(22). A bare perusal of the sequence of events and dates referred above clearly indicates that how the things can be moved and maneuvered swiftly in the corridors of the Secretariat, which is a matter for great concern not only for the members of the Service but also for the public at large. The orders which could not have been issued under the Rules have been given colour of a policy decision. The Cabinet decision was only to the extent of creation of independent departments in the Super Specialities, however, the Government had never taken a policy decision to adjust/re-designate those Associate Professors/Professors working in General Medicine in the newly created departments without following or amending the relevant Rules. As has already been referred above, the stand taken by the State Government earlier and now in the present writ petition has been absolutely contradictory.

(23). A bare reading of the scheme of the Rules would show that there could only be stop gap arrangement till necessary amendment in the rules or regular promotion are made on the post in question on availability of eligible candidates.

(24). In none of the judgments cited by learned counsel for the respondents, provisions of relevant rules were either referred or considered in detail. Mainly the creation of Super Specialities in the subjects concerned were upheld. The writ petition filed by Dr. L.C. Sharma was dismissed by this Court mainly on the ground of non-joinder of the necessary parties and not challenging the relevant orders. Policy decision of creating separate departments in the Super Specialities concerned has not been challenged so far. The challenge is only in regard to absorbing/re-designating the persons from other Speciality in the Super Specialities without following due process of law and the relevant rules.

(25). So far as objection in regard to delay is concerned, the same also loses ground because any action illegal and de hors the rules from the very inception

cannot be legalised with the lapse of time. Be that as it may, the petitioner became eligible for promotion to the post of Professor (Neurology) only in the year 2000. After having made proper representations the present writ petition has been filed. So far as binding effect of earlier judgments is concerned, though the relevant rules were neither considered in detail or challenged, however, if certain glaring facts and provisions of rules are brought to the notice of the Court, the Courts have always been taking a different view.

(26). After having considered the entire facts and circumstances of the present case, in my opinion, the respondent No. 2 (Dr. Ashok Pangariya), who was holding the substantive post in the cadre of General Medicine could not have been appointed by re-designation on the post of Professor (Neurology) and the impugned order dated 14.8.1995 is liable to be set aside.

(27). Since the writ petition has been heard finally on merits, in view of observations made above, no orders are required to be passed on the application filed by the respondent No. 2-Dr. Ashok Pangariya for referring the matter to Larger Bench.

(28). Accordingly, the writ petition is allowed. The impugned order dated 14.8.1995 is quashed and set aside. The respondent No. 2-Dr. Ashok Pangariya be treated as Professor on substantive basis in "the speciality of General Medicine only and his seniority may be determined accordingly. The post of Professor (Neurology) may now be filled in by regular promotion from the eligible candidates as per the Rules of 1962 and if the petitioner is found suitable by the DPC the promotion to the post of Professor (Neurology) be given to the petitioner accordingly. Necessary exercise be done and orders be issued within three months from the date of receipt of certified copy of this order. No order as to costs.