
(2000) 04 MAD CK 0016
In the Madras High Court
Case No : W.A. No. 2270 of 1987

Dr. S.P. Thiyagarajan, Prof. in Microbiology Post Graduate APPELLANT
Institute of Basic Medical Science, Taramani, Madras

Vs

Dr. T. Sundararaj, Reader in Microbiology Post Graduate RESPONDENT
Institute of Basic Medical Science, Taramani, Madras-600 113
and Others

Date of Decision : 24-04-2000

Acts Referred:

Citation : (2000) 04 MAD CK 0016

Hon'ble Judges : R. Jayasimha Babu, J;Prabha Sridevan, J

Bench : Division Bench

Advocate : R. Krishnarmoorthy, for Mr. S.M. Loganathan, for the Appellant; O.K. Sridevi for Respondent 1 and Mr. N.R. Chandran Senior Counsel for Mr. B. Ramamoorthy for Respondent 3, for the Respondent

Final Decision : Dismissed

Judgement

R. Jayasimha Babu, J.—Appellant before us is the Professor of Microbiology (Virology) in the post graduate institutted of Basic Medical

Sciences, University of Madras: He Obtained first rank in M.Sc. in the University of Madras in 1968 and obtained Ph.D. in Microbiology in 1979.

He entered into Tamil Nadu Medical Service in August, 1969 worked as Tutor, later as an Assistant Professor in the Madras Medical College and

Stanley Medical College. He was selected and appointed as Reader in Microbiology in the post-graduate Institute of Basic Medical Sciences of

the University of Madras on 25th September, 1982 and was the Officiating Head in charge of the department in 1986 -87 till he was, pursuant to

the selection made on 18.2.1987, appointed as Professor of Microbiology (Virology). It is that appointment that was called into question by his

colleague Dr. Sundararaj in Writ Petition No. 4194 of 1987. that writ petition having been allowed, the present writ appeal has been filed. We

may mention here that the Writ Petitioner Dr. Sundararaj, who had obtained Master's degree in Microbiology in 1970 was appointed as Lecturer

in the Post-Graduate Institute of Basic Medical Sciences in the year 1977. He obtained his Doctorate in 1979. He was not selected to the post of

reader at the selection that was held in 1982, appellant having been selected to that post. He was promoted as reader in the year 1985 under the

Career Development Program, and was holding that position when applications were called for the post of professor of Microbiology (Virology).

We may also mention here that the Professor under whom both these persons were working was Dr. S. Subramanian, who was the Professor

and Head of the Department of Microbiology until his retirement in March 1986. Even after retirement, his association with the department

continued, he having been appointed as Emeritus Professor.

2. The Appellant as well as the Writ petitioner also had been called for interview held on 18/2/87 before the Selection Committee, which had been

constituted for the purpose of selecting two professors:

Post I: Professor of Microbiology

Post:II Professor of Microbiology (Virology)

3. The Selection Committee constituted by the Vice-chancellor for the said posts comprised of (1) The Vice-chancellor Dr. Sundaresan (2) Dr.

(Tmt.)Lalitha Kameswaran, Director of Medical Education (3) Dr. S. Kameswaran, Honorary Director of the Post-Graduate Institute of Basic

Medical Sciences, (4) Dr. S. Subramanian, Emeritus Professor of Microbiology of the Institute, (5) Dr. C.A. Baskaran, head of the dept of

microbiology Osmania University (6) Dr. M. Lakshmanan, Professor of Microbiology, MK University, Madurai and (7) Dr. M.M. Prahlad,

Professor of Microbiology, Nagpur University.

4. The appellant and the writ petitioner were the only two candidates who had applied for both the posts of professor of Microbiology and

Professor of Microbiology (Virology). The Committee did not select any one for the post of professor of Microbiology. For the post of professor

of Microbiology (Virology) the Appellant Dr. S.P. Thyagarajan was selected. The minutes of the Selection Committee have been placed before us.

It is signed by all the members of the Committee. The relevant part of the minutes reads thus:

.....after interviewing the candidates, the following recommendations are made in order of preference:

I. FOR THE POST OF PROFESSOR OF MICROBIOLOGY (ONE)

1.)

2.) None Selected

II. FOR THE POST OF PROFESSOR OF VIROLOGY (ONE)

1. Dr. S.P. Thyagarajan

2.

5. After the Selection was made, that selection was approved by the syndicate on 9.3.1987. The Appellant assumed charge as professor of

Microbiology (Virology) thereafter and has been continuously holding that post for the last 13 years. As already noted he was in charge Head of

the Department from March 1986 till his regular appointment.

6. During the pendency of this writ appeal, which has unfortunately been pending for a long period of thirteen years, the Appellant Thyagarajan

acquired the degree of Doctor of Science in Microbiology from Madras University in 1990. He was also been the recipient of numerous awards

both national and international. He is the discoverer of a drug for a serious type of jaundice called Hepatitis in B extracted from the Indian

Medicinal Plant Kizhanelli, *Phyllanthus amarus*. Patent was obtained for the discovery in the name of the University of Madras. This achievement of

the appellant was highlighted in the Welcome Address and Report given by the Vice Chancellor at the 142nd Annual Convocation held in 1999. In

his speech it is noted that for the first time in the history of the University of Madras, an Indian/International patent has been filed in the name of

University of Madras for the discovery of a drug formulation for the treatment of a severe jaundice causing Hepatitis B Virus, from the Indian

medicinal plant, *Phyllanthus amarus*, commonly called Kizhanelli by professor S.P. Thyagarajan of the Department of Microbiology, which has

received international recognition and acceptance. It was also stated by the Vice Chancellor that this discovery has been taken over for

commercialization by Indian and International Pharmaceutical companies with

financial benefits to the University and that the drug is expected to be launched in the market during March, 2000. The appellant appears to have published 222 Research Publications of which 153 are in the field of Virology. 15 students have been awarded Ph.D. degrees under his guidance. 40 have been awarded M.Sc. 28 have been awarded M.D. and 7 are said to be undergoing Ph.D. training. He has also attended numerous international collaborations in his field of study and received several awards for the Research Projects by way grants given by Indian and Foreign Institutions.

7. The writ petitioner during this period was promoted as Professor of Microbiology under the Career Advancement Scheme with effect from 1995. He was away in Saudi Arabia as Microbiologist at a hospital there from 1994-1997. His publications and participations in national and international conference during that period appears to be nil. He appears to have one in one publication in Virology and 54 Research publications in his career. The details we have set out with regard to these two persons have been gathered from the statement handed over at the Bar when the appeal was being heard by the learned Senior Counsel for the appellant. The correctness of the contents of those statements have not been disputed before us.

8. We shall now examine the ground on which the writ petitioner assailed the selection of the appellant and the point that was urged before the learned single Judge to invalidate the selection, which point was accepted by the learned single Judge to invalidate that selection:

9. In paragraph 4 of the affidavit filed by the writ petitioner he has made an attack on the impartiality of Dr. Subramanian, impleaded as fourth

Respondent on the writ petition under whom he was working as a Lecturer in the Department. In that paragraph he has stated that for the post of

Reader which fell vacant in 1982 Dr. Subramanian who was the fourth respondent "brought in his student" Dr. Thyagarajan as the Reader

overlooking the other candidates and myself." In paragraph 5 he has alleged that the post of Professor of Microbiology (Virology) was created by

the fourth respondent Dr. Subramanian:

...with his influence with respondents 1 to 3, it was created by converting the existing post of Reader occupied by the 5th respondent and a

lecturer post which has fallen vacant, into one post of professor. Before his retirement the 4th respondents wanted to make the fifth respondent a

professor and accordingly he made respondents 1 to 3 agree to the creation of the post II as professor of Microbiology (Virology) to suit only the

5th respondent and no other person could become eligible for the said post.

....besides the 4th respondent had prescribed the qualification as ""work in Hepatitis B Virus"" for the said post II of professor as respondent 5 had

already had that qualification. It is therefore obvious that the calling for applications was only a farce and the same was intended to appoint only the

5th respondent for the said post.

10. In paragraphs 7 and 8 of his affidavit allegations have been made against the appellant. In paragraph 7, it is alleged that he had been informed

by the appellant that he had made written allegations against the writ petitioner on 25.8.1986 and those allegations had been put up along with the

writ petitioner's application for the post of professor with mala fide intention of ""prejudicing my interest in the Selection Committee which consisted

of respondents 2, 3 and the wife of the third respondent Dr. Lalitha Kameswaran.

11. In paragraph 8 he has alleged just because the 4th respondent had made the 5th respondent as acting Head of the Department of

Microbiology, the 5th respondent has used his power as acting Head of the Department to forward his allegations against me along with my

application for the post of professor and has effectively curbed my selection to the post of professor." It is necessary to notice here that for the

post of Microbiology (Virology) it had been notified that the person who has done the work in the field of Hepatitis would be preferred.

12. It is on these allegations that the petitioner sought the relief of having the appellant's selection set aside. The petitioner had also sought an

injunction to restrain him from continuing as the Head of the Department even during the pendency of the petition. The affidavit in the writ petition

appears to have been sworn on 19th April and the writ petition was filed on 20th April. The writ petition was heard for preliminary hearing on

22.4.1987 on which date notice was issued to the respondents. Two Typed sets" formed part of the record of the case. The first typeset contained

documents directly or indirectly referred to and relied upon in the affidavit. The second typed set which is dated 22.4.1987 contained unattested

copies, being typed copies of two documents, both said to be copies of letters written by Dr. Subramanian to the Vice-chancellor. Learned

counsel for the writ petitioner has now placed before us the document that was given to her by her client based on which the second typed set was

prepared. That document does not contain any signature. It does not bear any date. The affidavit that was filed by the writ petitioner in support of

the writ petition does not anywhere make any reference to this undated and unsigned letter.

13. After notice was directed to be issued to the respondents, by the learned single Judge copy of the second typeset appears to have been served

on the counsel for the University on 3rd September 1987. The matter was heard by the learned single Judge on 10th September and judgment

delivered on 16th September 1987.

14. We have referred to these dates as the sole basis for the judgment under appeal is the copy of that letter, which is undated, and unsigned, and

which has not been referred to in the affidavit of the petitioner, and a copy of which had been produced before the Court at the time notice was

ordered two days after the filing of the writ petition into court. At the final hearing of the writ petition the only point that was argued was a point

which had not been even raised in the affidavit filed in support of the writ petition. Learned single Judge in paragraph 11 of the impugned judgment

has noticed the argument that was advanced before him. He has stated that counsel would urge "first and foremost, that the selection of the fifth

respondent as professor is actuated by bias. The petitioner has been able to get at a letter written by the fourth respondent to the Vice-Chancellor

of the University, which will clearly show as to how the fourth respondent wholly favoured the fifth respondent thereby even before the interview to

place he has pre-judged the matter;" That (letter) the foundation for the order under the appeals.

15. The practice of producing documents without filing an affidavit in support of the same is a practice which must be frowned upon. Valuable

rights of parties cannot be determined with reference to documents the veracity of which is not even prima facie established. The burden of proving

the case with which a party comes to court is on the party who asserts that a particular state of affair exists. If the document on which the party

wants to rely is not one to which it is in the normal course entitled, it is for the party to apply to the Court, to direct the opposite party to produce the document or to call upon the other party to produce the document for... (sic) if it is a material document. In any event documents of the nature now placed before us should not, in the normal course be received, unless at the minimum an affidavit is filed by the person producing it, to give credence to a claim that the document is genuine. The document produced in this case is not one addressed to the writ petitioner, Not a single word has been said about it in the affidavit, no further affidavit was filed at any point of time explaining the circumstances under which this document came to the custody of the writ petitioner. No explanation has been offered at all as to the basis on which any reliance can be placed on a document which on the face of it is undated and unsigned. Serving a copy of the document one week prior to the date of hearing on counsel is wholly insufficient to impute notice of the contents of the document to the purported author or purported addressee. The fact that when the case was heard, counsel for the respondents 1 to 4 did not repudiate the contents, does not on (sic) score alone establish the genuineness of the document. It is wholly unsafe for the court to receive a document of that nature. It would be a prudent course for the court to insist upon an affidavit being tiled whenever such documents are sought to be produced and relied upon, when no reference has been made to the document in the affidavit filed in support of the writ petition.

16. For the purpose of this appeal, we shall assume that the letter relied upon by the writ petitioner was in fact signed and had been sent and we shall examine the case pleaded by the petitioner on that basis. What was alleged by the petitioner in the writ petition clearly shows his lack of confidence in the impartiality of his Professor Dr. Subramanian under whom he had worked for several years. He was aggrieved that he was not selected as Reader in the year 1982. He was further aggrieved when Dr. Subramanian proposed the creation of the second professorship of Microbiology in the field of Virology. The grievance appears to have become more acute when the desirable qualification was stated as research in the field of Virology. The impression that was given to the learned single Judge that the writ petitioner had come into possession of the alleged letter

from the 4th respondent to the Vice Chancellor only "now" does not seem to be founded on facts. The impression which is unavoidable is that the

writ petitioner had always in his possession this document. It was no new discovery. Learned counsel for the writ petitioner very fairly and rightly

submitted before us that she had declined to refer to this document while drafting the affidavit, as no reliable document had been produced before

her in support of the writ petition though such a letter had been claimed to be addressed to the Vice Chancellor by Dr. Subramanian. The

subsequent production of that letter as part of the second typed set was explained to us as being based upon the document now placed before us.

That document, as noticed earlier, is neither dated nor signed. The petitioner failed to place that document before his counsel on the 19th April

when the affidavit in the writ petition was sworn to does not establish that this document was not with him on or prior to that date.

17. Despite the strong feelings entertained by the writ petitioner regarding the lack of impartiality of the fourth respondent and despite his

knowledge of the fact that the fourth respondent was a part of the Selection Committee, the writ petitioner did not at any point of time choose to

record his protest or object to the participation of the fourth respondent in the Selection Committee. Even the letter that was produced by the writ

petitioner which is imputed to the fourth respondent in the writ petition, a perusal of its contents reveals that it could only have been written,

assuming that it was, in fact written, nearly one year prior to the date of the Selection Committee Meeting.

18. Learned single Judge has completely omitted to refer to this aspect in his judgment under appeal. He has, while noticing the arguments placed

before him noticed the argument that was advanced by the learned counsel for the University that the principle of waiver clearly applied on the

facts of this case. After noticing the argument, nothing more has been said thereafter in the judgment as to the tenability or otherwise of that

argument. Learned Judge has proceeded on the basis that the letter to which we have already referred, showed that the fourth respondent has pre-

judged the issue regarding the suitable candidate for the post of professor of Microbiology (Virology) and thereby become incapable retaining an

impartial outlook when he sat on the Selection Committee.

19. The principle that no man should be judge in his own cause and the principle that justice should not only be done but seen to be done, are too well established to require in a detailed discussion. The very nature of the judicial proceeding requires that the body charged with the responsibility of adjudicating should be objective, impartial and act wholly without any bias. The overriding public interest in maintaining the confidence of the public in the integrity of administration of justice, would require refusal by the Judge in any cause in which he has an interest, whether pecuniary or otherwise, which would render him appear to be lacking in impartiality. The likelihood of bias is sufficient and it is not always essential to show that there has been actual bias, as it is not possible for anyone to enter into the mind of another to ascertain the factors which weigh in the mind of the other in reaching the decision that he did reach. These principles which apply to any adjudication have gradually over a period of time come to be extended to Tribunals, quasi judicial bodies, and appellate or administrative decisions, as part of principles of natural justice required to be observed by all decision makers whenever the decisions have civil consequences for the person aggrieved by such adjudication or determination. The tests have been referred to as the test of reasonable suspicion emphasising thereby the manner in which the entire proceeding would appear to an objective third party who is reasonable and is reasonably well informed. The standard of likelihood of bias requires an assessment by the court of all the factors existing in a given case with a view to determine as to whether bias could have existed in the mind of the adjudicator decision maker.

19-A. However the fact that there is a reasonable suspicion that the adjudicator/ decision maker may have been biased, or that there was likelihood of bias does not in all the cases render the decision void or voidable. Waiver by the person affected is a well recognised ground for holding that a decision rendered by a body which includes a person who may have been biased would nevertheless bind and is not to be invalidated. As early as 1957 the Supreme Court in the case of *Manak Lal Vs. Dr. Prem Chand*, while dealing with an argument that the decision rendered by the disciplinary tribunal constituted by the Bar Council, which included a member who according to the appellant before the Apex Court was biased

against him, was void, the court while considering that question, observed thus:

....The alleged bias in a member of the tribunal does not render the proceedings invalid if it is shown that the objection against the presence of the

member in question had not been taken by the party even though the party knew about the circumstances giving rise to the allegations about the

alleged bias and was aware of his right to challenge the presence of the member in the tribunal...

.... If, in the present case, it appears that the appellant knew all the facts about the alleged disability of Shri Changani and was also aware that he

could effectively request the learned Chief Justice to nominate some other member instead of Shri Changani and yet did not adopt that course, it

may well be that he deliberately took a chance to obtain a report in his favour from the tribunal, and when he came to know that the report had

gone against him he thought better of his rights and raise this point before the High Court for the first time. In other words though the point of law

raised by Shri Dephtary against the competence of the tribunal be sound, it is still necessary for us to consider whether the appellant was precluded

from raising this point before the High Court by waiver or acquiescence.

20. That question was considered by the Apex Court in paragraph 9 of that judgment relevant portions of which are set out below: ""From the

record it is clear that the appellant never raised this point before the tribunal and the manner in which this point was raised by him even before the

High Court is somewhat significant..... It may be conceded in favour of Shri Dephtary that the judgment of the High Court does not in terms find

against the appellant on the ground of waiver, though that no doubt appears to be the substance of their conclusion. We have, however, heard Shri

Dephtary's case on the question of waiver and we have no hesitation in reaching the conclusion that the appellant waived his objection deliberately

and cannot now be allowed to raise it.....From a purely common sense point of view of a layman, the position was patently awkward and so,

the argument that the appellant was not conscious of his legal rights in this matter appears to us to be an after thought...Since we have no doubt that

the appellant knew the material facts and must be deemed to have been conscious of his legal rights in that matter, his failure to take the present

plea at the earlier stage of the proceedings creates an effective bar of waiver

against him. It seem clear that the appellant wanted to take a chance to secure a favourable report from the tribunal which was constituted, and when he found that he was confronted with an unfavourable report, he adopted the device of raising the present technical point.

21. The position in this case in very similar. The appellant knew all the material facts on basis of in which he imputes lack of impartiality to the fourth respondent, and nursed many grievances against him, as also against the 5th respondent, but chose not to object to the presence, of the fourth respondent on the Selection Committee though nothing prevented him from doing so.

22.This principle of waiver was reiterated as a ground for non-suiting a person who complains of bias in the selecting or adjudicatory body, by the

Apex Court in the case of G. Sarana Vs. University of Lucknow and Others, of the judgment the Court reiterated the principle laid down in

Manak Lal Vs. Dr. Prem Chand, for non-suiting the appellant before it. The court observed thus at paragraph 15:

We do not, however, consider it necessary in the present case to go into the question of the reasonableness of bias or real likelihood of bias as

despite the fact that the appellant knew all the relevant facts, he did not before appearing for the interview or at the time of the interview raise even

his little finger against the constitution of the Selection Committee. He seems to have voluntarily appeared before the Committee and taken a

chance of having a favourable recommendation from it. Having done so, it is not now open to him to turn round and question the constitution of the

Committee.....

23. These observations are applicable with full force to the case of the writ petitioner before us. His conduct is similar. He knew all the facts. Yet

he did not object to the composition of the Committee, appeared before it took the chance of being selected or not being selected and after being

disappointed, he came before the court raising this plea of bias for the first time, and that too without referring to the material on which he ultimately

sought to rely at the hearing.

24. In the case R v. Bow Street Metropolitan Stipendiary Magistrate and others reported in (1999) 1 ALL ER 577) it was held by the House of

Lords, the principle that a judge was automatically disqualified from hearing a

matter in his own cause was not restricted to cases in which he had a pecuniary interest in the outcome, but also applied to cases where the judge's decision would lead to the promotion of a cause in which the judge was involved together with one of the parties. All the Members of the Bench except one wrote individual opinions. In the context of the facts of this case, it is useful to refer to portions of the opinion of Lord Goff, as also of Lord Hope. Lord Goff in his opinion after referring to the principle *nemo judex in sua causa* a man shall not be a judge in his own cause"" and the well known decision of *Dimes v. Proprietors of Grand Junction Canal* (1852) 3 HL Cas 759 and in stating the question that was decided in the case, observed"". It was decided following the opinion of the judges, that Lord Cottenham LC was disqualified, by reason of his interest in the cause, from adjudicating in the matter, and that his order was for that reason voidable and must be set aside. Such a conclusion must follow subject only to waiver by the party or parties to the proceedings thereby affected.

Later in the same opinion Lord Hope again referred to waiver in the following passage:

.....The question which arises is whether his connection with that party will (subject to waiver) itself disqualify him from sitting as a judge in the proceedings, in the same way as a significant shareholding in a party will do, and so require that the order made upon the outcome of the proceedings must be set aside.

25. Lord Hope in his opinion observed that one of the cornerstones of the English legal system, is the impartiality of the tribunals by which justice is administered. He quoted with approval the observations of Lord Buckmaster in *Seller v. Highland Ry. Co* (1919 SC (HL) 19) that the importance of preserving the administration of justice from anything which can even by remote imagination infer a bias or interest in the Judge, upon whom falls the solemn duty of interpreting the law, is so grave, that any small inconvenience experienced in its preservation may be cheerfully endured. After so stressing the principle Lord Hope observed thus:

...The purpose of the disqualification is to preserve the administration of justice from any suspicion of impartiality. The disqualification does not follow automatically in the strict sense of that word, because the parties to the suit may waive the objection....

26. It is thus seen that even where the need for preserving impartiality - in fact as also in appearance - is the greatest, as in a court of law, waiver

would still constitute a good ground to deny relief to the party who seeks to have the verdict delivered by the adjudicating authority to whom bias

or likelihood thereof can be attributed set aside. The person who has waived his rights to object in time cannot long thereafter seek the

adjudication to have an inconvenient verdict set aside.

27. The Supreme Court, in the well known case of *Kraipak v. Union of India* reported in (A.I.R. 1970 S.C. Page 150) at paragraph 22 referred

to an earlier decision of the court in the case of *Sumer Chand Jain v. Union of India* in Writ Petition No. 237/66 dated 4.5.1967 wherein the court

had repelled the contention that the proceedings of a Department Promotion Committee were vitiated, as one of the members of that committee

was favorably disposed towards one of the selected candidates. The court had held that the plea of mala fides had not been established. The

Constitution Bench distinguished that case from the fact of the case of *Kraipak*, by observing that in that case there was no question of any conflict

between duty and interest, nor was any member of the Departmental Promotion Committee a Judge in his own case. The court thus did not

disapprove of the participation by a member in a Selection Committee solely on the ground that he was favorably disposed towards one of the

candidates and did hold that the selections made by such a Committee should be invalidated solely on that ground.

28. More recently, the Supreme Court in the case of *Utkal University Vs. Dr. Nrusingha Charan Sarangi and Others*,) has sounded a note of

caution in matters where Expert Committees make selections, and their selections are challenged by aggrieved parties on the ground of bias. The

Court, in paragraph 10 of the judgment, has observed thus:

...Allegations of bias must be carefully examined before any selection can be set aside. In the first place it is the joint responsibility of the entire

Selection Committee to select a candidate who is suitable for the post. When experts are appointed to the Committee for selection the selection

should not be lightly set aside unless there is adequate material which would indicate a strong likelihood of bias or show that any member of the

Selection Committee had a direct personal interest in appointing any particular

candidate....

29. The bias alleged here is against the former Head of the Department who is now an Emeritus professor, an honour conferred by the University

in recognition of his past distinguished research work. That appointment is only by invitation and not application. All that has been alleged against

him is that the appellant was his student, that the appellant was in 1982, appointed as a Reader, and recommendation had been made for making

him a professor in his specialised field of study, a field in which he had without doubt distinguished himself by reason of the quality of the research

work and the numerous publications effected by him for which he had received honours both national and international. The university is pre-

eminently a place where merit is required to be recognised. It is the task of the professor to identify, assess, guide and reward merit. What has

been said against the fourth respondent is that he is "guilty" of having recognised the merit of the fifth respondent. The writ petitioner was also part

of the same department and had been serving as a lecturer for several years. He had not been found to be the best available candidate for the post

of Reader when an open selection was made in 1982. It is not his case that the quality of his research is outstanding and that his knowledge in the

field is deeper and greater than that of the appellant. All that has been asserted by him is that he had the same degrees-a Masters and a Doctorate.

The degrees by themselves do not establish his suitability for the higher post of professor which requires that the holder of the post himself be an

able researcher besides being capable of guiding others and leading a team which can prove its worth by the quality of research carried out. None

of the allegations made in the writ petition by themselves are sufficient to hold that the fourth respondent was biased against the writ petitioner.

Even the document which is undated and unsigned does not state anywhere that the writ petitioner should be denied a professorship because the

fourth respondent prefers the Appellant. All that the unsigned letter which was, even according to the writ petitioner, allegedly sent nearly one year

before the selection states is that in the field of Virology the appellant had distinguished himself, that there was a need to establish a professorship

for Virology in the Department, and considering the qualifications and the quality of the work performed by the appellant, he was well suited for

that post. All the Respondent have filed affidavits denying the allegations made against them by the writ petitioner.

30. Even the writ petitioner does not contest the correctness of any of those statements. His grievance in fact is that for the professorship of

Virology, knowledge in that field was regarded as desirable, and such a stipulation would have the effect of disabling the writ petitioner from

applying for and being selected. The allegation in the writ petition is more about the creation of the post, and the prescription of the desirable

qualification than about the presence of the fourth respondent on the Selection Committee. The argument that was advanced before the learned

single Judge, which argument found favour with him, was purely an after-thought. It is also apparent that the writ petitioner took the chance of

appearing before the Selection Committee as he must have entertained the hope that he would be selected for the post of professor of

Microbiology for which also he had applied. Unfortunately for him he was not selected for that post. Having regard to what we have said in the

foregoing paragraphs, we must hold that the learned single Judge was in error in allowing the writ petition. The Writ Appeal is allowed and the writ

petition is dismissed.