

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **(1) W.P(C) No.11328/2009**

% **Date of Decision: 08.12.2009**

ALOK THAKAR Petitioner

Through: NEMO.

versus

ALL INDIA INSTITUTE OF MEDICAL
SCIENCES & ORS. Respondents

Through: Mr. Rajesh Katyal and Ms.
Anagha, Advocates for
respondent No.1
Mr. R.K. Gupta and Mr. S.K.
Gupta, Advocates for respondent
No.2

AND

(2) W.P(C) 11537/2009

ALL INDIA INSTITUTE OF MEDICAL
SCIENCES Petitioner

Through: Mr. Rajesh Katyal and Ms.
Anagha, Advocates.

versus

DR. K.K. HANDA & ANR. Respondents

Through: Mr. R.K. Gupta and Mr. S.K.
Gupta, Advocates for respondent
No.1

CORAM:

HON'BLE MR. JUSTICE ANIL KUMAR

HON'BLE MR. JUSTICE VIPIN SANGHI

1. Whether the Reporters of local papers
may be allowed to see the judgment? Yes
2. To be referred to Reporter or not? No
3. Whether the judgment should be reported
in the Digest? No

ANIL KUMAR, J.

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C.M. No. /2009 in W.P.(C) No. 11328/2009 and C.M. No. 15397/2009 in W.P. (C) Nos. 11537/2009 & W.P.(C) No. 11328/2009

1. This is an application by Dr. K.K. Handa, one of the respondents contending inter alia that he was working as Associate Professor in ENT Department of All India Institute of Medical Sciences and he has resigned and joined Medi City, Gurgaon and, therefore, he does not want to contest the Writ Petition and does not claim any relief granted to him by the Tribunal. In the circumstances the applicant/Dr. K.K. Handa has sought passing of the appropriate orders.

2. The applicant had filed the petition seeking quashing of memorandum dated 29.01.2009 passed by the Director, All India Institute of Medical Sciences making Dr. Alok Thakkar senior to Dr. K.K. Handa and quashing of memorandum dated 13.03.2009 appointing Dr. Alok Thakkar acting Head of the Department of ENT.

3. The Tribunal by its order dated 25.08.2009 had set aside the decision of the governing body dated 23.01.2009 and consequent thereto the order dated 29.01.2009 making Dr. Alok Thakkar senior to Dr. K.K. Handa. The Tribunal had also directed All India Institute of Medical Sciences to recall the order dated 13.03.2009 appointing Dr. Alok Thakkar, acting Head of ENT.

4. Aggrieved by the order of the Central Administrative Tribunal dated 25.08.2009, W.P. (C) No. 11328/2009 has been filed by Dr. Alok Thakkar and W.P. (C) No. 11537/2009 had been filed by All India Institute of Medical Sciences.

5. Since Dr. K.K. Handa has resigned from All India Institute of Medical Sciences and he does not press for the relief granted by the Tribunal, therefore, the inter se seniority dispute between Dr. Alok Thakkar and Dr. K.K. Handa will not survive. Pursuant to Dr. Handa not claiming any relief, AIIMS shall not be entitled to recall memorandum dated 13.03.2009.

6. As far as All India Institute of Medical Sciences is concerned, it will be open to the institute to agitate all the points raised in its writ petition in other appropriate proceedings. The observations made by the Tribunal regarding Governing Body and functioning of experts and other matters about the functioning of AIIMS shall be deemed to be the observations made between the parties in the present petitions and shall not be binding in other proceeding.

7. With these directions the writ petitions are disposed off. All the pending applications are also disposed off.

ANIL KUMAR, J.

DECEMBER 08, 2009
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VIPIN SANGHI, J.