
(2022) 04 MP CK 0035

Madhya Pradesh High Court

Case No: Writ Petition No. 5668, 5940 Of 2020, 6229, 6740, 6742 Of 2022

Dr. Mohita Pandey And
Others

APPELLANT

Vs

State Of Madhya
Pradesh And Others

RESPONDENT

Date of Decision: April 11, 2022

Acts Referred:

Constitution Of India, 1950 " Article 15, 16, 226#Madhya Pradesh Chikitsa Shiksha Pravesh Niyam, 2018 " Rule 4, 4(1), 4(1)(g), 4(1)(g)(1), 4(1)(x), 14, 14(1), 14(2)

Citation: (2022) 04 MP CK 0035

Hon'ble Judges: Sujoy Paul, J; Dwarka Dhish Bansal, J

Bench: Division Bench

Advocate: Siddharth Radhe Lal Gupta, Shubham Khamparia, Ashish Anand Bernard, Janhvi Pandit, Aditya Sanghi

Final Decision: Dismissed

Judgement

Total,UR,ST,SC,OBC,EWS

436,175,87,70,61,43

Total,UR,ST,SC,OBC,EWS

131,53,26,21,18,13

21. The parties during the course of arguments placed reliance on following statutory provisions, the Admission Rules:-",,,,,,

22. The pivotal question needs consideration in this case is whether the unfilled reserved vacancies are required to be filled up vertically/ category,,,,,

wise or the same can be filled up by taking into account the entire vacancies ?.,,,,,,

23. As noticed, Shri Siddharth Gupta, Advocate urged that there are two watertight compartments of "in-service candidates" and "open",

candidates. Unfilled reserved category vacancies of in-service compartment needs to be vertically filled up from within the candidates of this

category. Shri Gupta's arguments is based on unamended Rule 14 (2) of the Admission Rules. However, w.e.f. 5.10.2021, the said Rule stood

substituted by newly inserted Rule 14(1) and (2). Thus, the argument based on unamended Rules is of no assistance to the petitioners. So,

far substituted Rule 14(1) and (2) are concerned, if these Rules are read in the manner suggested by learned counsel for the petitioners, on first blush

argument appears to be attracted but upon microscopic reading of the provision, the argument lost much of its shine. To elaborate, the

substituted Rule 14(1) shows that it talks about vacancies (). In our view, Rule 14 (1) and (2) is required to be read with

definition of "in-service" (). A combined reading of the provisions makes it clear that the intention of law makers while using the word

"in-service" relates to all the vacancies and not confined to the vacancies earmarked for "in-service candidates". A careful reading of

sub Rule (1) of Rule 14 shows that out of all the vacancies in all the available subjects in Government and Private Medical/ Dental Hospital, 30% shall

be reserved for "in-service candidates". The word "reserved" is not used in the sense it is normally used when community based

reservation flowing from Article 15/16 of the Constitution is being given. The intention of legislature was to give a separate source of entry to in-

service candidates to the extent of 30% out of the total vacancies.

24. A minute reading of sub Rule (1) and (2) of Rule 14 leaves no room for any doubt that "in-service" means all the vacancies and not

vacancies confined to "in-service candidates". Putting it differently, in sub Rule (2) of Rule 14 it is mentioned about vacancies of sub Rule (1) of

Rule 14(1). At the cost of repetition, in our considered opinion, the vacancy of sub Rule (1) relates to the entire set of vacancies of all subjects",,,,,,

available in Government and Private Medical Colleges as well as in Dental Hospitals.

Thus, we are unable to persuade ourselves with the line of",,,,,,

argument advanced by learned counsel for the petitioners.,,,,,,

25. Once it is held that the vacancies mentioned in sub Rule 14 (1) and (2) means entire set of vacancies, the argument of petitioners that "in-service",,,,,,

service candidate and open category candidates belonged to two separate compartments, pales into insignificance. The chart (page",,,,,,

No.64) on which heavy reliance was placed by Shri Gupta does not establish that there are two separate compartments and there exists a line of",,,,,,

control between them which cannot be crossed unless unfilled seats of reserved category are filled up vertically as within the compartment.,,,,,,

26. So far judgments of Supreme Court on which reliance is placed by Shri Gupta are concerned, the said judgments are based on different factual",,,,,,

backdrop and interpretation of instant Admission Rules was not subject matter of adjudication. Thus, said judgments are of no assistance to the",,,,,,

petitioners.,,,,,,

27. The petitioners also placed reliance on the judgment of Supreme Court in the case of Zila Sahkari Kendriya Bank (supra). In the said judgment it",,,,,,

was held that special provision will prevail over a general provision. There cannot be any doubt about said proposition. However, said principle cannot",,,,,,

be pressed into service in the factual matrix of this case.,,,,,,

,,,,,

28. A combined reading of Rule 2 (), Rule 4 (1) and Rule 14(1) and (2) makes it clear like noon day that intention behind bringing these provisions into",,,,,,

statute book was to apply the category-wise reservation in the second round of counselling on the entire vacancies and not separately for "in-service",,,,,,

category and open category candidates.,,,,,,

29. As discussed above, the interpretation suggested by the petitioners cannot be accepted. Thus, no fault can be found in the action of respondents in",,,,,,

applying Rules to the entire set of vacancies. No case is made for interference. Petitions fail and are hereby dismissed. No costs.,,,,,,