

(2013) 08 P&H CK 0850

High Court Of Punjab And Haryana At Chandigarh

Case No: Letters Patent Appeal No. 1454 of 2013 (O and M)

Dr. Navdeep Arora and Another

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision: Aug. 20, 2013

Hon'ble Judges: Sanjay Kishan Kaul, C.J; Augustine George Masih, J

Bench: Division Bench

Advocate: Vikas Singh, for the Appellant;

Final Decision: Dismissed

Judgement

Sanjay Kishan Kaul, C.J.

CM-3704-2013:

Exemption allowed subject to just exceptions.

LPA-1454-2013:

1. The appellants joined as doctors in Zila Parishad in the Department of Rural Development and Panchayats, Punjab, in the year 2006 on contractual basis. Their services were regularised after a couple of years. The appellants were appointed as PCMS Doctors with the Government of Punjab only in August-2012. The appellants are on probation. The appellants seek the benefit of the 60% quota reserved for in-service PCMS Doctors for admission to the Postgraduate Medical Course/Diploma, even though they are not eligible to do so when they are on probation as per the terms and conditions of eligibility. The learned single Judge, in terms of the impugned order dated 29.7.2013, has dismissed the writ petitions holding that there was nothing wrong with the relevant Clause 14(1)(A)(a)(i). The sum and substance of the submissions of the learned counsel for the appellants is that the clause of the notification mandating "clearing the probation period" as necessary is unreasonable and arbitrary on the account of the fact that the appellants have already rendered six years" service in rural area as per Clause

14(1)(A)(a)(ii) of the notification and are entitled to the benefit of rural service.

2. The learned single Judge has held that the condition of clearance of probation period has a great significance especially in view of the fact that the entire course is sponsored by the Government at its own expense.

3. In our view, the reasoning of the learned single Judge cannot be faulted with. One may say that appellants had not even taken birth in the cadre prior to 2012. Despite this, benefit of rural service rendered by them in their prior service is being counted for giving some additional benefit, even though it was on contractual basis. This does not imply that even the probation period to be rendered in the PCMS services should be waived for purposes of considering the eligibility of the appellants for the quota of post-graduate seats completely financed by the State Government. The requirement of two years probation period is as per Rule 11 of the Punjab Civil Medical Service (Class-I) Rules, 1972. The reasoning of the learned single Judge is as under:

... I am of the considered opinion that all the writ petitions are without any merit because Clause 14(1)(A)(a)(ii) of the notification is a provision enabling the in-service PCMS Doctors, who have either four years of service in "very difficult" area (Category "D") or six years in "difficult" area (Category "C") or on appropriate combination of both and in case candidates, who have completed 5 years of service as on 1.1.2012, have completed 2 years of service in "most difficult" areas or 3 years of service in "difficult" area and Rural Medical Officers, who have once selected in PCMS are also given benefit of rural service rendered by them as RMOs under Zila Parishad. Meaning thereby, their services are equated with the aforesaid two kinds of services which has reference to the PCMS in-service Doctors in Category "D" & "C" and "most difficult" and "difficult" areas for a period of two years and three years but it does not mean that they could be considered without clearing the probation period. All the candidates are required to clear probation period of two years or if it is extended then the said period before he could be considered eligible in terms of the Clause 14(1)(A)(a)(iii) of the Notification.

4. We are in complete agreement with the aforesaid reasoning. Dismissed.

CM-3703-2013:

As a consequence of dismissal of main appeal, the stay application is also dismissed.