

#33

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

+ W.P.(C) 5388/2008

B.C.PATHAK

..... Petitioner

Through: Mr. Francis Paul, Adv.

versus

THE OFFICE OF THE PRIME MINISTER
OF INDIA & ORS

..... Respondents

Through: Ms. Jyoti Singh with Mr. Ankur Chhibbar,
Advs.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

% **ORDER**
25.11.2009

The respondents have introduced Prime Minister Merit Scholarship Scheme for benefit of wards of defence personnel. Total number of scholarships available under the scheme at any point of time are limited to 4000 and in case number of applications for scholarships exceed the said figure, scholarships are awarded in the order of preference stipulated in paragraph 3.2.

2 Wards of ex-serviceman fall in category 6.

3 The petitioner's minor daughter Ms. Garima Pathak had secured 87.2% marks in class XII examination and had secured admission to MBBS Course in N.M.C.H. Patna. The petitioner's daughter Ms. Garima Pathak applied for scholarship under the said scheme vide application dated 23rd October, 2007.

4 Ms. Garima Pathak has been denied scholarship on two grounds. The petitioner had not enclosed ex-serviceman I-card issued by Zilla Sainik Board and secondly photocopy of the complete discharge book had not been submitted.

5 During the course of the hearing, it is admitted that even students who had secured 60% marks in aggregate in class XII were awarded scholarship in category 6.

6 The Prime Minister's merit Scholarship Scheme has been placed on record by the petitioner. The general instructions stipulated at the end of the said scheme, state that the check list attached on top of each application should be tick marked and wrong and misleading entries would lead to rejection. It is further stated that scholarship was admissible to two children per family and therefore particulars should be indicated in the appropriate column. There should be no false statement and any false statement would lead to forfeiture of scholarship and the scholarship already granted shall be recovered. Clause (i) is relied upon by the learned counsel for the respondents, reads as under :-

“(i) The attached photocopies of the supporting documents should be duly attested by any gazette officer. In case of legally adopted son/daughter or child born after retirement, the certificates are to be attached with the application form duly attested by Secretary, RSB/ZSB.”

7 The aforesaid clause stipulates that along with the form, candidate should attach photocopies of the stipulated documents which should be duly attested by a Gazetted Officer and in case of legally of adopted son/daughter or child born after retirement, the certificate to be attached with the application form should be duly attested by the Secretary, RSB/ZSB.

8 The original application form filed by the petitioner has been produced in the Court by the respondents. The petitioner along with the application form had attached duly attested copy of the certificate issued by Central Board of Secondary Education and her mark sheet. The petitioner had also filed a joint photograph of the petitioner along with his wife as an ex-service man with particulars with last page of the said booklet which has signatures of the petitioner as well as the signatures of the AOC /Air Officer

Commandant with his stamp. Attested copy of the provisional pension payment order was also filed. The petitioner had filed original certificate issued by Air Force record office certifying as under:-

“It is certified that EX 666361 WOBC PATHAK was enrolled in the Indian Air Force on 5.9.1979 and discharged from service on 4.8.2006 at his own request on transfer of pension establishment as per the records held at this office.

Further GARIMA is the daughter of above named Ex-Airman whose date of birth is 11.9.1989 (Eleven September Nineteen Eighty Nine) as per records held at this office. Her father falls in the category of ex-service man and she is entitled for all the benefits extended towards of ex-serviceman.”

9 The aforesaid certificates speaks for itself. The petitioner along with application form had therefore, taken extra or additional precaution to obtain original certificate from the Air Force record office that he was an ex-service man and had also filed on record photocopy of the certificate and discharge issued by the Air Force office. The said Air Force card contains a photograph of the petitioner and his wife and his particulars as an ex-serviceman. Attested copy of the pension payment order was filed along with the application form. General instructions did not specifically and in clear terms stipulate need to file I-card issued by Zilla Sainik Board and discharge book or any other document or certificate will not be suffice. Respondents were required to be careful while scrutinizing each application and not reject them even when sufficient material and evidence in support was filed. In fact the scheme being beneficial has to be interpreted in a reasonable manner, so that benefits are not denied to genuine and deserving cases. General instructions should have been differently worded and applicants cautioned and warned that I-card issued by Zilla Sainik Board or entire discharge book had to be filed. In these circumstances, I do not see any reason why the petitioner's daughter should be denied benefit of the scholarship specially when she had secured 87.2% marks in Class XII and had secured admission to the first year of MBBS Course. Wards of ex-service man who had secured 60 % marks in class XII have been given scholarship.

10 It may be also noticed that in case a ward is not granted scholarship in the first year, she is not eligible for scholarship during the entire duration of the course to which she is admitted. Thus in case the petitioner's daughter is denied scholarship in the first years, she will not be entitled to scholarship during the entire MBBS Course. Of course

the petitioner's daughter will have to meet the eligibility norms prescribed for availing the scholarship in future academic years.

11 Accordingly, the writ petition is allowed and the directions are issued to the respondents to award scholarship to the petitioner's daughter namely Ms. Garima Pathak. Aforesaid scholarship amount for the first year will be paid to the petitioner within a period of six weeks from the date copy of this order is received by the respondents. The petitioner will apply for scholarship for the second and third year along with relevant papers within a period of six weeks from today and the said applications will be verified within a further period of six weeks from the date application is received and in case Ms. Garima Pathak is entitled to scholarship she will be paid arrears within a further period of six weeks. No costs.

SANJIV KHANNA,J

**NOVEMBER 25, 2009
J**