

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

FRIDAY, THE 5TH DAY OF JUNE 2015/15TH JYAISHTA, 1937

W.P.(C).No.12222 of 2015 (C)

PETITIONER(S):-

SUNIL.R, AGED 45 YEARS, S/O.LATE RAMACHANDRAN,
AMBILI BHAVAN, MAHADEVIKAD P. O.,
MAHADEVIKAD MURI, KARITHIKAPPALLY VILLAGE,
KARITHIKAPPALLY TALUK, ALAPPUZHA DISTRICT, PIN-690516,
NOW WORKING AS ASSISTANT SURGEON,
PRIMARY HEALTH CENTRE CHINGOLI, KARTHIKAPPALLY TALUK,
ALAPPUZHA-690516.

BY ADV. SRI.G.BENO.

RESPONDENT(S):-

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
HEALTH AND FAMILY WELFARE DEPARTMENT , SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
2. COMMISSIONER OF ENTRANCE EXAMINATIONS,
OFFICE OF THE COMMISSIONER OF ENTRANCE EXAMINATIONS,
HOUSING BOARD BUILDING, SANTHI NAGAR,
THIRUVANANTHAPURAM-595001
3. DIRECTOR OF MEDICAL EDUCATION,
DIRECTORATE OF MEDICAL EDUCATION,
MEDICAL COLLEGE P O, THIRUVANANTHAPURAM - 695011.

R1 TO R3 BY GOVERNMENT PLEADER SRI.ROSHEN D.ALEXANDER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:-

- EXT.P1:- TRUE COPY OF THE APPLICATION DTD 27/12/2014.
- EXT.P2:- TRUE COPY OF THE ADMIT CARD TO APPLICATION NO 1514944
FOR PGM ENTRANCE EXAM.
- EXT.P3:- TRUE COPY OF THE PROSPECTUS FOR ADMISSION TO MEDICAL
PG DEGREE ENTRANCE EXAM 2015.
- EXT.P4:- TRUE COPY OF THE GO(RT)517/2015/H&FWD DTD 3/2/2015.
- EXT.P5:- TRUE COPY OF THE RESULT OF SERVICE QUOTA OF PGM COURSE
ENTRANCE EXAM 2015.
- EXT.P6:- TRUE COPY OF THE NON-CREAMY LAYER CERTIFICATE NO 326/15
ISSUED BY VILLAGE OFFICER.
- EXT.P7:- TRUE COPY OF THE REPRESENTATION DTD 4/4/2015 BY THE
PETITIONER TO THE 2ND RESPONDENT.
- EXT.P8:- TRUE COPY OF THE RANKLIST DTD 12/3/2015.
- EXT.P9:- TRUE COPY OF THE RANKLIST DTD 30/3/2015.

RESPONDENT(S)' EXHIBITS:-

NIL.

Vku/-

[true copy]

K. Vinod Chandran, J

W.P.(C).No.12222 of 2015-C

Dated this the 05th day of June, 2015

JUDGMENT

The petitioner is a candidate in the entrance examination for post-graduate medical course [for brevity “PG medical course”] conducted by the State for the academic year 2015-16. The petitioner, admittedly, applied for the same as an in-service candidate. The petitioner's claim raised in the writ petition is with respect to his non-consideration as a member of the Socially and Educationally Backward Class [for brevity “SEBC”]. The petitioner did not apply as a SEBC candidate for reason of the prospectus having provided a relaxation in the minimum qualifying marks for an in-service candidate and a SEBC candidate; both to the extent of reduction to 40% as against the 50% for general candidates.

2. The prescription of relaxation by deduction of minimum percentage of marks available to in-service candidates was interfered with by the Hon'ble Supreme Court by judgment dated 12.01.2015 in C.A.Nos.297 and 298 of 2015. Hence, the in-service candidates were required to have the minimum requirement of 50%.

The petitioner had 40.16% marks in the examination and if he had been considered as a SEBC candidate, then he would have acquired the threshold eligibility for being considered for allotment, is the argument.

3. The petitioner also cannot feign ignorance of the relaxation to in-service candidates being taken away. The Government had brought out an order dated 03.02.2015, wherein, the negative marking system for the entrance examination was taken away, only as a consequence of the Supreme Court judgment and the apprehension of the Government that by the prescription of 50% marks as minimum requirement, sufficient number of inservice candidates would not be available. The petitioner, even on knowledge of the same, did not approach any of the authorities nor did he take any legal proceedings to ensure that he is considered under the SEBC quota.

4. The learned Government Pleader, on instruction, submits that the entire allotment is over and the Health Service Quota, in which the petitioner is borne, would have been either filled up, or conceded to another service and if not even then filled up, allotted to the General Quota. The contention is that if the petitioner

had approached this Court earlier, the petitioner's allotment could have been considered.

5. The petitioner having not applied for the entrance examination as a SEBC candidate and having not produced the required certificate as per the prospectus, cannot now claim to be considered as such, especially since the allotment is over.

6. The petitioner, on the basis of Exhibits P8 and P9, contends that a revision of the rank list was already made and the petitioner also could, hence, be considered. But, Exhibit P9 only indicates that a revision was made. Nothing is evident as to, for what reason the same was done. The petitioner's application before the Commissioner for Entrance examination, produced at Exhibit P7, dated 04.04.2015 could not be considered, since he never applied for the examination claiming the benefit of a SEBC candidate.

The writ petition would stand dismissed.

Sd/-
K.Vinod Chandran
Judge.

vku/-

[true copy]