

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 2ND DAY OF JUNE 2015/12TH JYASHTA, 1937

WP(C).No. 14413 of 2014 (B)

PETITIONER(S):

1. DR.SHARMA R.J., AGED 35 YEARS,
S/O.J.RAMANATHAN, GAYATHRI, KUMARAPURAM P.O.,
HARIPPAD, PRESENTLY WORKING AS ASSISTANT SURGEON,
PRIMARY HEALTH CENTRE, CHERUTHANA, AYAPARAMBU P.O.,
ALAPPUZHA DISTRICT.
2. DR.LALAS.V.S., AGED 36 YEARS,
S/O.V.VIDHYADHARAN, MUTTATHUVILA VEEDU, HIMASAILAM,
CHIRAKKADAVAM, KAYAMKULAM P.O., KERALA-690 502,
PRESENTLY WORKING AS ASSISTANT SURGEON,
PRIMARY HEALTH CENTRE, CHERUTHANA,
AYAPARAMBU P.O., ALAPPUZHA DISTRICT.

BY ADVS.SRI.P.RAVEENDRAN PILLAI,
SMT.INDIRA RAVEENDRAN.

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF HEALTH & FAMILY WELFARE (S) DEPARTMENT,
THIRUVANANTHAPURAM-695 001.
2. THE DIRECTOR OF MEDICAL EDUCATION,
THIRUVANANTHAPURAM-695 001.
3. THE DIRECTOR OF MEDICAL EDUCATION,
MEDICAL COLLEGE P.O., THIRUVANANTHAPURAM-695 001.
4. THE DIRECTOR OF HEALTH SERVICES,
GENERAL HOSPITAL P.O., GENERAL HOSPITAL JUNCTION,
THIRUVANANTHAPURAM-695 001.

BY GOVT.PLEADER SRI.ROSHEN D.ALEXANDER.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT-P1: TRUE COPY OF G.O.(P) NO.70/2003/H & FD DATED 09.04.2003.
- EXHIBIT-P2: TRUE COPY OF G.O.(MS) NO.13/2010/H & FWD DATED 14.01.2010.
- EXHIBIT-P3: TRUE COPY OF THE PROCEEDINGS OF THE STATE MISSION DIRECTOR (NRHN) DATED 24.09.2012.
- EXHIBIT-P4: TRUE COPY OF G.O.(MS) NO.10/2014/H & FWD DATED 06.01.2014 AND ITS ANNEXURES.
- EXHIBIT-P5: TRUE COPY OF G.O.(MS) NO.55/2014/H & FWD DATED 15.02.2014.
- EXHIBIT-P6: TRUE COPY OF THE APPLICATION SUBMITTED BY THE 1ST PETITIONER FOR POST GRADUATE MEDICAL COURSE DATED 21.02.2014.
- EXHIBIT-P6(A): TRUE COPY OF THE APPLICATION FOR ADMISSION TO POST GRADUATE MEDICAL COURSE SUBMITTED BY THE 2ND PETITIONER DATED 20.02.2014.
- EXHIBIT P7 COPY OF THE FINAL SENIORITY LIST OF POST GRADUATE ADMISSION 2014 UNDER HEALTH SERVICES QUOTA.
- EXHIBIT P8 COPY OF THE DOCUMENT SHOWING MY SERVICE IN PHC CHERUTHANA.
- EXHIBIT P9 COPY OF THE DOCUMENT SHOWING THE LENGTH OF SERVICE OF THE 2ND PETITIONER.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.A. TO JUDGE

rs.

K. VINOD CHANDRAN, J

W.P(C) No. 14413 of 2014

Dated this the 02nd day of June, 2015

J U D G M E N T

The petitioners, both were before this Court claiming seniority as per the weightage granted in Ext.P2 to “difficult rural area service”. The specific contention raised by both the petitioners were that they were employed in one PHC, Cheruthana at Alappuzha District which has been by Ext.P4 dated 6.1.2014 declared to be a “difficult rural area”. The petitioners in the admission for the academic year 2014-2015 were aggrieved with Ext.P5 circular dated 15.2.2014 wherein it was specifically indicated that the weightage as specified in Ext.P2, in the light of the new notification including certain difficult rural areas and excluding certain others, could be claimed by the persons employed in the new additions only from the date of Ext.P4, i.e, from 6.1.2014. Those difficult rural areas which were deleted also could not give

rise to a claim for periods subsequent to Ext.P4 order.

2. Hence those who were working in those centres included for the first time in Ext.P4, would be entitled only if they have the minimum required service from the date of Ext.P4. Likewise those employed in the centres deleted by Ext.P4 could claim difficult area service only up to its date. The petitioners challenged the same on the ground that the petitioners had been continuing respectively for four years and two years in PHC Cheruthana at the time of introduction of Ext.P4 and hence they ought to be considered for weightage as persons who have worked in difficult rural areas. Admittedly they did not have the required minimum service to be so treated from the date of Ext.P4.

3. The earlier notifications of the Government declaring certain rural areas and difficult rural areas were published as per orders read 1 and 2 of Ext.P4; in 2003 and 2004 when Cheruthana PHC was not included. It is conceded that the

Cheruthana PHC was included only as per Ext.P4 dated 6.1.2014. The inclusion and deletion of places as difficult rural areas made by the Government is, after looking at the ground realities existing at the time of publication of such orders. Hence any weightage granted on such categorisation as a difficult rural area can only be from that date. Especially since the earlier notifications did not so categorise it. In such circumstance, this Court does not find any infirmity in Ext.P5.

4. It is also to be noticed that the writ petition as such has become infructuous since the admissions for the academic year 2014-15 was over, long back and the State is in the anvil of the admissions for the academic year 2015-16. It is also pertinent that none of the persons who would have been displaced, if the petitioners claim was allowed, were impleaded herein. The learned counsel for the petitioner however, would urge that a declaration that Ext.P4 would be applicable from 06.01.2014 would

be sufficient. However, this Court is not inclined to grant such declaration, since for one it would be redundant so to do going by the specific stance of the Government and in any event that would have to be after hearing the affected parties who appear in the selection for the academic year 2015-16. Definitely, the contention of the petitioners would be left open to be urged if the issue crops up in the present academic year. No declaration, in anticipation, would issue.

Writ petition would stand closed. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge