

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.17947 of 2015
& M.P.No.1 of 2015

Minor R.Nandhini Shree
D/o G.Radhakrishnan,
Judges Quarters, Destha Street,
Karaikkal, Puducherry
Union Territory-609 602.

Represented by her mother and
next friend Mrs.R.Lakshmi.

.. Petitioner

Vs.

1.The Secretary to Government,
Education Department,
Puducherry.

2.The Chairman,
Centralised Admission Committee (CENTAC),
Puducherry Engineering College Campus,
Puducherry.

3.The Convenor,
Centralised Admission Committee,
Puducherry Union Territory.

.. Respondents

Petition filed under Article 226 of The Constitution of India
praying to issue a writ of mandamus directing respondents 2 and 3 to
accept the petitioner's candidature for admission in professional
course through CENTAC upon treating the petitioner's case as
fulfilled under Clause 2.5(c) of the Information Bulletin, CENTAC.

For Petitioner

.. Mr.R.Muthukumarasamy,
Senior Counsel for
Mr.Swarnam J.Rajagopalan

For Respondents

1 to 3 By

.. Mr.A.Tamilvanan,
Government Advocate (P)

ORDER

By the Government Order passed in G.O.Ms.No.388, Home (Courts-1) Department dated 28.05.2014, the petitioner's father was deputed from Tamil Nadu State Judicial Services to the Services of Government of Puducherry. On the basis of this order dated 28.05.2014, an Official Memorandum dated 23.06.2014 was issued by the Registrar General of this Court transferring and posting the petitioner's father to Judicial Magistrate No.II, Karaikal. Accordingly, he was posted as Additional District Munsif cum Judicial Magistrate No.II, Karaikal. On 02.06.2014, by the Government Order in G.O.Ms.No.16/2014/LD, Law Department, on deputation, the petitioner's father was posted as Additional District Munsif cum Judicial Magistrate No.I, Karaikkal. The order dated 23.06.2014 of the Registrar General of this Court clearly indicates that posting order will be issued after obtaining necessary orders from the Government. The petitioner's father also joined duty on 26.06.2015.

2. The petitioner aspired to put her daughter in admission in a professional course. In this regard, the Information Bulletin for the year 2015-2016 issued by the Government of Pondicherry deals with admissible criteria for the Union Territory of Pondicherry in the following manner.

"Children of Central/State Government Servants/Defence Personnel/Central Paramilitary Forces/Employees of Public Sector Undertakings wholly or substantially run either by the Central Government or by the Puducherry UT administration posted and serving in the Puducherry UT for at least a minimum period of one year prior to the last date of submission of application."

3. Though the petitioner is entitled to get adequate marks to consider her claim for admission under the Government quota in the private colleges, she was not given the seat on the ground that her father did not serve in the Pondicherry Union Territory for a minimum period of one year. Therefore, the petitioner has come forward to file this writ petition.

4. The learned Senior Counsel appearing for the petitioner submitted that what is important is a posting. The word "serving" will have to be read in consonance with the word 'posting'. Without posting, there cannot be any serving. Once a person is posted, it is impossible for anybody else to serve in that post. Therefore, the minimum period of one year will have to be reckoned from the date of posting and not serving. Clause 2.5 (c) of the Information Bulletin is a bar for consideration only if a person who was not served in the post after his posting, but not otherwise.

5. The learned Government Advocate (Pondicherry) appearing for the respondents submitted that the petitioner's father has not served for a period of one year, even though posting order was issued beyond one year. Therefore, she was not considered for admission by giving weightage to the period of service rendered by her father, especially when there is a shortage of 20 days. A further submission is made that even otherwise there is no vacancy as on today to accommodate the petitioner as the Government quota in the private colleges have been filled up.

6. A reading of Clause 2.5 (c) of the Information Bulletin would show that it primarily deals with posting. For posting, a person concerned will have to be served. Once a person is posted, then he becomes an officer in that place. The period of actual serving becomes immaterial in that event. A procedural delay cannot be a ground to deny the benefit, which is sought to be given. Even, while serving, a person concerned may not work continuously without taking periodical leave and the entire period has to be taken cumulatively. It is not as if the petitioner's father has not served at all and in that case the situation will be different. Considering the above, this Court is of the view that it is a fit case where the petitioner will have to be considered for a seat in MBBS course in any one of the private colleges through Central Admission Committee (CENTAC).

7. In view of the submissions made by the learned Government Advocate (Pondicherry) that there is no vacancy as on today to accommodate the petitioner and in the light of the fact that the candidates who have got lesser mark in the same category have not been made as parties to this writ petition, this Court is unable to give a positive direction though the statement made that such candidates were in fact given the seats is not denied.

8. Accordingly, the writ petition stands disposed of by directing respondents 2 and 3 to provide a medical seat to the petitioner through CENTAC, in the event of any ensuing vacancy that would arise in any one of the private colleges qua Government quota. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

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To

1.The Secretary to Government,
Education Department,
Puducherry.

2.The Chairman,
Centralised Admission Committee (CENTAC),
Puducherry Engineering College Campus,
Puducherry.

3.The Convenor,
Centralised Admission Committee,
Puducherry Union Territory.

+1 cc to Mr.Swarnam J. Rajagopalan, Advocate, sr.40145

+1 cc to Senior Government Pleader-Cum-
Senior Public Prosecutor, sr.40266.

W.P.No.17947 of 2015

svi(co)
kra(17/08)



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