

CWP No.6464 of 2015 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.6464 of 2015 (O&M)
Date of decision:21.05.2015**

Dr. Dinesh

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. R.K.Malik, Senior Advocate, with
Mr. Sangram Malik, Advocate, for the petitioner.

Mr. Anant Kataria, AAG, Punjab.

Rakesh Kumar Jain, J. (Oral)

The petitioner is posted at Primary Health Centre, Dorangla, District Gurdaspur (hereinafter referred to as the “PHC, Dorangla”) since 11.03.2011. Respondent no.2 issued its prospectus for admission in MD/MS/PG Diploma and MDS Courses, as per which 60% quota is reserved for PCMS Medical/Dental in service doctors. The eligibility requirements for the PCMS in service doctor for admission to the postgraduate course are as under:-

“27(II) For 60% quota candidates PCMS (Medical/Dental) in service doctors).

- a) The Eligibility requirements are as under:
- i. Regular PCMS (Medical/Dental) employee
 - ii. Has completed 4 years service in very difficult (Category-D) area or 6 years

service in difficult (Category C) area or an appropriate combination of both. In case of candidates who have completed 5 years of service as on 01.01.2012, they should have completed 2 years of service in most difficult areas or 3 years of service in difficult areas.

- iii. RMO's once they are selected in PCMS (Medical/Dental), will be given benefits of rural service rendered by them as RMO's under Zila Parishad.
- iv) Has cleared the probation period.
- v) Has good service record.
- vi) Has no vigilance/departmental/disciplinary inquiry pending against him/her.
- vii) Will have 10 years of service left after completion of the course.
- b) The period of rural service shall be computed as on March 31st 2015.
- c) Adhoc service rendered in respective category will be counted for the purpose of computing the stipulated period.
- d) Weightage of 1 mark for each year of service in difficult area & 1.5 marks for most difficult area over & above the eligibility of rural service shall be given, subject to a maximum of 5 marks.
- e) PCMS (Medical/Dental) in service candidates will submit along with the application a certificate regarding length of service, length of rural service, number of years of service left after completion of PG course & that no department/vigilance inquiry is pending against the candidate.
- f) All PCMS (Medical/Dental) doctors who are

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selected for admission to post graduate courses shall have to produce a No Objection Certificate from the Govt. of Punjab, Department of Health & Family Welfare.

- g) All in service doctors shall have to submit a bond of Rs.40 lakhs to serve the Punjab Government for a period of 10 years after completion of postgraduate course. If the candidate fails to do so, he/she shall have to submit the bond money with the government.”

The petitioner is alleged to have fulfilled all the conditions prescribed because he is a regular PCMS doctor and appointed on 11.03.2011; he has completed four years 20 days service in very difficult area (Category-D); he has successfully completed the probation period; he has good service record; no vigilance/departmental/disciplinary enquiry is pending against him; he will attain the superannuation age on 31.05.2041 and has more than 10 years service left after completion of the course.

The Punjab Government had issued instructions dated 02.02.2011 categorizing the health institutions as “normal”, “difficult” and “more difficult” in which the “more difficult” area is described as under:-

“3. More Difficult

These institutions are those who are considered very unattractive by doctor as follows:-

Institution like Pakistan border in border districts like Gurdaspur, Tarn Taran, Ferozepur and Districts like Patiala, Bathinda, Sangrur, Mansa Muktsar etc. near Haryana border. If a doctor serve for 2 years in these institutions, he will be eligible for 60% PG quota. For service more than 2 years in institutions extra 1.5 mark

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will be given for every year above 2 years of service upto maximum 5 marks. These maximum 5 marks will be given after combining service in Difficult & More Difficult area and not 10 marks in any case. It is to clarify that 1 years service in "More Difficult" area will be equivalent to 1.5 years in Difficult area service."

Since the PHC, Dorangla has been put in Category-C, therefore, the petitioner sent a request to respondent no.1, for converting PHC, Dorangla from Category-C to D. Respondent no.1 referred the representation of the petitioner to the Director, Health & Family Welfare, Punjab, for consideration, who called for the comments of the Civil Surgeon, Gurdaspur and other Civil Surgeons. The Senior Medical Officer (Incharge), PHC, Dorangla, intimated Civil Surgeon, Gurdaspur, recommending PHC, Dorangla, to be converted from Category-C to Category-D, on the following grounds:-

- "1. This institute is 16 kms. away from Gurdaspur District and surrounded to Pakistan Border with 3 kms and the villages falls under this institute are attached nearer to Pakistan Border.
2. The condition of the roads of this area is not so good and to reach this institute there is a link road from village Dorangla and to walk two kms. to reach the institute.
3. The residential quarter of this institute are declared condemn by the PWD (copy enclosed).
4. There is no good town near to this institute and no good school for the children.
5. As nearer to Border there is no sufficient network facility and there are lot of problems in

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communication.”

In turn, the Civil Surgeon, Gurdaspur, intimated the Director, Health & Family Welfare, Punjab, about the recommendation for conversion of PHC, Dorangla, from Category-C to Category-D, while agreeing with the recommendations made by the Senior Medical Officer (Incharge) of the PHC, Dorangla. The Director, Health & Family Welfare, Punjab, constituted a committee vide his letter dated 16.02.2015 to consider the case of categorization of the PHC, Dorangla and other institutions.

In the meantime, the petitioner also approached the Director, Health & Family Welfare, Punjab, stating that he has been working at PHC, Dorangla from 11.03.2011 to 31.03.2015, undertaken the MD/MS exam conducted by the AIPGMEE and secured 977.1927 marks out of 1500. He requested for issuance of NOC for the purpose of attending counselling, to be held by respondent no.2.

In the meeting held on 19.02.2015, to consider the categorization of health institutions lying under the Zila Parishad including that of the PHC, Dorangla, it was proposed to categorize the PHC, Dorangla from Category-C to Category-D and on the basis thereof, the Director, Health & Family Welfare, Punjab, intimated respondent no.1 about the decision of the committee constituted by him for conversion of PHC, Dorangla, from Category-C to D.

Since the respondent no.1 did not issue NOC to the petitioners, despite the recommendation of the committee, the present petition has been filed in which after notice, respondent no.1 has filed the reply, assigning the reason for the decision taken by the Government that “*whereas, it is seen*

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that the Doctors joined there happily. Only those stations are kept in Category D, where the Doctors are not agreed to be deployed’.

The petitioner has filed rejoinder to the reply filed by respondent no.1 in which it is averred that the PHC, Dorangla is not a station liked by the doctors as most of them got themselves transferred before completion of the period of 3 years and this fact has been depicted by the petitioner by way of a chart, which is reproduced as under:-

S.No.	Name of Doctor	Designation	Date of joining	Date of relieving	Total duration of work at PHC Dorangla
1	Dr. Daljit Chauhan	Medical Officer	25/10/01	23/07/03	1 year 8 months 28 days
2	Dr. Kiran Kaushal	Medical Officer	03/06/06	08/10/07	1 year 4 months 5 days
3	Dr. Preminderjit Singh	Medical Officer	12/08/09	01/04/10	7 months 20 days
4	Dr. Kamalpreet Singh	Medical Officer	27/05/10	04/08/14	4 years 2 months 30 days
5	Dr. Manjinderjeet Kaur	Medical Officer	13/08/10	30/06/14	3 years 10 months 17 days
6	Dr. Dinesh	Medical Officer	11/03/11	Working till date	Still working
7	Dr. Harpuneet	Dental Medical Officer	05/05/11	19/08/11	3 months 14 days
8	Dr. Shamili	Dental Medical Officer	11/09/11	18/07/14	1 years 9 months 29 days

It is also mentioned that no-one is interested in his/her posting at PHC, Dorangla as at present, the sanctioned post of Medical Officers at PHC, Dorangla are three but only the petitioner is working there for more than 4 years and 2 posts are still lying vacant. Similarly, there is one sanctioned post of Dental Medical Officer, but no-one has been posted and the post is lying vacant. Thus, it is submitted that the reason assigned by respondent no.1 in the order dated 30.04.2015 that the doctors joined the PHC, Dorangla, happily is unreasonable and arbitrary.

Learned counsel for the petitioner has reiterated the stand taken

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in the writ petition and counsel for respondent no.1 has pressed the decision taken by the government on 30.04.2015, in his arguments.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the reason assigned in the letter dated 30.04.2015 (Annexure R-2/T) is not only flimsy but also unreasonable and arbitrary in the face of the recommendations made by the committee of seven members who had recommended conversion of the PHC, Dorangla, from Category-C to D and also after recommendation of the Director, Health & Family Welfare, Punjab, on the basis of the report of the committee, for converting the PHC, Dorangla, from Category-C to D.

Even otherwise, the reasons given by the Senior Medical Officer, PHC, Dorangla, which have already been reproduced here-in-above, are sufficient for converting the PHC, Dorangla, from Category-C to D.

Thus, in view of the aforesaid facts and circumstances, this writ petition is hereby allowed and the PHC, Dorangla, Gurdaspur, is ordered to be converted from Category-C to Category-D and respondent no.1 is further directed to issue NOC to the petitioner forthwith so that the petitioner may attend the counselling to be held by respondent no.2 on 25.05.2015.

A copy of this order be given to the counsel for the parties under signatures of the Bench Secretary, for compliance.

May 21, 2015
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(Rakesh Kumar Jain)
Judge