HON'BLE SRI JUSTICE SURESH KUMAR KAIT

WRIT PETITION No.20992 of 2015

ORDER:

Vide the present petition, the petitioner seeks a mandamus declaring the proceedings, in Rc.No.14346/E1/DM&HO-Nzb/2015 dated 02.07.2015 issued by the respondent No.3 (District Medical and Health Officer, Nizamabad), that he is not eligible for service eligibility certificate as Armoor falls under urban and had not put in six years of service, as illegal and arbitrary. Consequently, a direction is sought to the respondents to issue Eligibility Service Certificate to the petitioner treating Armoor as rural as he had completed required period of three years in Community Health Centre (CHC), Armoor and to enable him to prosecute Post Graduation Course for the academic year 2015-16.

Heard the learned counsel for the parties.

It is admitted fact that the petitioner joined as Civil Assistant Surgeon in Government Service on 30.03.2011. He has been posted to CHC, Armoor, Nizamabad, which comes under rural, and is working as such till date. Salary particulars of staff working in CHC, Armoor, for the months of November, 2013, January, 2014, February, 2015 and April, 2015, are herewith filed as Annexures – P-2 to P-5. The salary particulars of CHC, Armoor, establish that House Rent Allowance (HRA) @ 12% was being paid and rural allowance was being paid but not the urban allowance. Thus the employees working in Armoor come under rural category irrespective of status basing on its geography. The geographical status of a town cannot be clubbed to employment status of that town as both are different and have nothing to do with each other.

Learned counsel for the petitioner submits that the

Government issued G.O.Ms.No.59, Finance (PC-I) Department, dated 11.04.2011, enhancing HRA with effect from 01.04.2011 at various places. According to the G.O, cities/towns are divided into four classes and HRA is being paid depending on the class of the city. 30% of basic pay i.e. maximum of Rs.12,000/- p.m. in GHMC area; 20% of basic pay i.e. maximum of Rs.8,000/- p.m. in some cities/towns; 14.5% of basic pay i.e. maximum of Rs.8,000/- p.m. in some cities/towns; and 12% of basic pay i.e. maximum of Rs.8,000/- p.m. in other areas. 12% of HRA is paid in rural and tribal areas. The staff working in CHC, Armoor, including the petitioner, is being paid 12% HRA. The service rendered by the petitioner in Armoor is rural service.

Learned counsel for the petitioner further submits that, based on the recommendations of 9th Pay Revision Commission, the Government issued G.O.Ms.No.135, dated 08.06.2010, regarding the allowances payable to doctors working in Health, Medical and Family Welfare Department. In respect of male and female doctors working in PHCs and CHCs, rural allowance has been increased to Rs.1,500/- and Rs.2,000/- respectively. The petitioner is being paid rural allowance of Rs.1,500/-. Thus, CHC, Armoor is a Rural Hospital and the service of the petitioner is rural service.

Learned counsel for the petitioner also submits that, as per the guidelines for Sub-District/Sub-Divisional Hospitals framed by the Director General of Health Services, Ministry of Health and Family Welfare, Government of India, which is annexed as P.8, the Rural Health Care System in India has been described as Three Tire System called Sub-Centre; Primary Health Centre and Community Health Centre. The Community Health Centre is covered under Rural Health Care Systems in India. Thus, the

service of petitioner is rural service. The finding of respondent No.3 that the petitioner is not entitled for eligibility service certificate for admission into PG course is contrary to the guidelines and deserves to be set aside.

In the counter affidavit filed by respondent No.3, it is stated that, as per the census figures of 2011, the Armoor population is more than 50,000 and less than 2.00 lakhs. Accordingly, HRA at 14.5% was sanctioned. The averment in the petition that, though Armoor Town might have been declared as smaller urban area in terms of geographical wise, the population in Armoor Town does not exceed 40,000 which is much lesser than the population prescribed in Rural Health Care system, is absolutely false. It is further stated that, as per check list, petitioner was shown as service candidate but respondent Nos.2 and 3 had not issued Rural Service Certificate for the academic year 2015-16.

According to Part XII-B of Series-29 of Census of India, 2011, pertaining to Andhra Pradesh, the location code number of Armur is '0056'. Total population is 78,084 and rural population of surrounding villages is 57,964. Part XII-B of Series-29 of Census of India, 2011 pertaining to Andhra Pradesh is contrary to the submissions made in the counter affidavit. In view of the above, I find no substance in the arguments and counter affidavit of the respondents.

Accordingly, the proceedings, in Rc.No.14346/E1/ DM&HO-Nzb/2015 dated 02.07.2015, issued by the respondent No.3 is hereby quashed. I hereby direct respondent No.4 (NTR University of Health Sciences, A.P. Vijayawada) to admit the petitioner into Post Graduation course, allow him to prosecute his studies and complete the said course without causing any hurdles.

The Writ Petition is, accordingly, allowed. Miscellaneous

Petition pending, if any, shall also stand disposed of. However, in the circumstances, without costs.

SURESH KUMAR KAIT, J

Dt:09.08.2016
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