

HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.32790 of 2016

Order: (per V.Ramasubramanian, J.)

The petitioner who could not get admission to the Medical College run by the ESI Corporation, under the quota earmarked for “Wards of Insured Persons”, has come up with the above writ petition.

2. Heard Mr. T.S. Rayalu, learned counsel for the petitioner and Mr. B.G. Ravinder Reddy, learned counsel for the ESI Corporation.

3. There is no denial of the fact that there is an “Insured Persons’ Quota”, for admission to the Medical College run by the ESI Corporation. “Insured Person” is defined in para-8 of the Admission Policy. The same reads as follows:

“The ‘Insured Person’ shall be an ‘employee’ as defined in the ESI Act; and he/she should have been in continuous insurable employment for a minimum period of five years as on 1st January of the year of admission and should have paid at least 78 days of contribution in each Contribution Period, during this five year period. The 5 year period would be counted from the date of entry into the ESI Scheme. For employees who entered the Scheme prior to 9th June, 2011, the date of entry into the Scheme for the purpose of availing benefit of Insured Persons Quota for his/her wards would be the date of submission of ‘Declaration Form’ by the employer in respect of the employee concerned at the Branch Office or another appropriate office of the ESIC.”

4. Unfortunately, the petitioner’s father who was employed with a company by name Shree Mahalakshmi

Kendra, though had joined service in 2007, did not get registered with the ESI Corporation. As per the counter filed by the Corporation, the Declaration Form was submitted on behalf of the petitioner's father only on 22-4-2011. Therefore, the petitioner's father had not completed 5 years of service as on 01-01-2016. This is why the petitioner was not considered for the benefit of the above quota.

5. The contention of the learned counsel for the petitioner is two-fold. The first is that the date of appointment of his father as reflected in the Identity Card issued by his employer was 02-4-2007, but the same was wrongly indicated in the counter-affidavit as 01-4-2011. This contention of the petitioner appears to be justified. The respondents have indicated a wrong date.

6. The second contention of the learned counsel for the petitioner is that the Deputy Director of ESI Corporation issued a notice on 15-11-2010 to the employer of his father, calling upon him to show-cause as to why the Institution should not be covered. According to the learned counsel, the employer submitted the details within two weeks. Once he had done so, the date of submission of the Declaration Form should be taken to be the said date.

7. But we do not agree. A notice issued to the employer calling upon him to show-cause as to why his establishment should not be covered, cannot be taken to be the date on which a Declaration Form should have been filed by the

employer. Assuming that a reply was given to the said notice, the same does not tantamount to filing of a Declaration Form.

8. As seen from the relevant portion of the Admission Policy, which we have extracted above, the 5 year period for the purpose of eligibility would be counted only from the date of entry into the ESI Scheme. The petitioner's father did not enter the ESI Scheme before April, 2011.

9. The second portion of paragraph-8 of the Admission Policy, which we have extracted above, shows that for those who entered the Scheme prior to 09-6-2011, the date of submission of the Declaration Form will be taken to be the date of entry.

10. But in the case of the petitioner's father, his submission of the Declaration Form itself was 22-4-2011. Therefore, even after applying the second part of paragraph-8 of the Admission Policy, the petitioner's father does not satisfy the eligibility criteria.

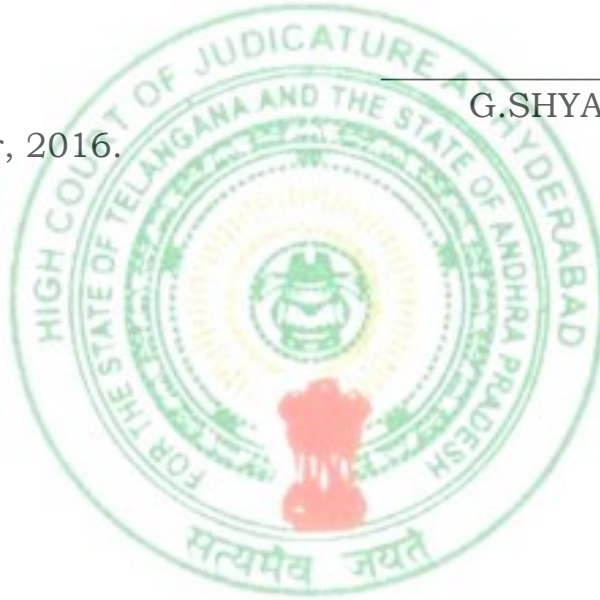
11. Strong reliance is placed by the petitioner on the Certificate issued by the Regional Director on 25-7-2016 to the effect that the petitioner's father has contributed for a period of 5 years as on 01-01-2016. But there appears to be something wrong with the Format of the Certificate as provided in Annexure-II. The Format in which the Regional Directors are supposed to give Certificates relating to wards of insured persons, contain a tabulation that starts from 01st April, 2011 and ends with 30th September, 2015.

Therefore, on the basis of the wrong Format, given by the Corporation, the completion of 5 year period seems to have been worked out. Therefore, the Certificate will be of no avail to a person, who otherwise does not fulfill the eligibility criteria. Hence, the writ petition is dismissed. The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

V.RAMASUBRAMANIAN, J.

G.SHYAM PRASAD, J.

24th October, 2016.
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HON'BLE SRI JUSTICE V.RAMASUBRAMANIAN
AND
HON'BLE SRI JUSTICE G.SHYAM PRASAD

Writ Petition No.32790 of 2016
(per VRS, J.)



24th October, 2016.
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