201 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 18683 of 2017(O&M)
Date of decision : 31.10.2017

Annu .... **Petitioner**

versus

Union of India and others .... **Respondents**

CORAM : HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE SUDHIR MITTAL

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Present: Mr.J.P.Jangu, Advocate for the petitioner.

Mr.Vikas Suri, Advocate, Senior Standing Counsel for respondents No. 3 and 4.

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SURYA KANT, J. (Oral)

The petitioner seeks a direction to issue 'Insured Persons(IP) Certificate' under Group-I on the basis of contribution made by her father as per details mentioned in Annexure P-3 and consequently seeks a Writ of Certiorari to quash memo dated 07.07.2017(Annexure P-6) whereby she has been issued the aforementioned certificate under Group-II only.

(2) The controversy pertains to grant of admission in MBBS/BDS Course against the seats reserved in Employees' State Insurance Corporation Medical Educational Institutions for the year 2017-18.

(3) Shorn of the details, it is suffice to mention that father of the petitioner is registered as 'insured person' under the Employees' State Insurance Corporation (the 'ESIC' for short) w.e.f. 18.03.2012. The ESIC vide memo dated 04.07.2017(Annexure P-4) reserved 332 seats under 'Insured Persons Quota' for admission to MBBS/BDS Courses in different ESIC Medical Colleges throughout the country.

(4) The petitioner was also an aspirant for admission against one of the aforesaid seats for which she applied for issuance of the requisite certificate i.e. ward of 'Insured Persons Certificate'. Vide the impugned certificate dated 07.07.2017, she was issued certificate under Group-II instead of Group-I. Her short grievance in the instant writ petition is that she is entitled to such certificate under Group-I.

(5) It will be useful at this stage to reproduce the relevant provisions of the Revised Admission Policy for under-graduate(MBBS/BDS) Courses in ESIC Medical Education Institutions for 2017-28 onwards and the same (relevant extract) is as follows:-

"Clause in Existing Admission Policy	Clause after Revision
8. Definition of IP	
i. 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.	He/she should have been in continuous insurable employment for a minimum period of **five/four/three** years as on 1st January of the year of admission. **The insured person for the said purpose shall be grouped as Group-I/II/III respectively.**
ii. IP should have paid at least 78 days of contribution in each Contribution Period, during this five year period.	IP should have paid at least 78 days of contribution in each Contribution Period, during this **five/four/three** year period.
*A contribution period is of 6 months duration, i.e. April to September and October to March. There would be **09/07/05** full contribution periods in the **05/04/03** year period under consideration. Two half-contribution periods on either side of the first (Jan-March) and last (Oct-Dec)contribution period are ignored for determining eligibility.*	
iii. 5 year period would be counted from the date of entry into the ESI Scheme	**05/04/03** year period would be counted from the date of entry into the ESI scheme.
iv. Any period prior to the date of entry described above would not be counted towards the 05 year period of eligibility for the purpose of availing benefit of Insured Persons(IPs) Quota.	Any period prior to the date of entry described above would not be counted towards the 05/04/03 year period of eligibility for the purpose of availing benefit of insured persons(IPs) Quota.

4. Methodology for filling up of Insured Persons (Ips) Quota:	
4.4 Prospective/desirous and eligible candidates are required to appear in an All India competitive examinations in force or any other similar equivalent approved Central entrance test as may be specified from time to time.	**SAME as BEFORE**
4.5 After qualifying in such Centralized test, candidates have to respond to the advertisement by the ESIC and, apply for admission under the Insured Persons (Ips) Quota, along with the marks/merit obtained in the said Centralized Entrance Test, their preference and supportive documents, etc.	After qualifying in such Centralized test, candidates have to respond to the advertisement by the ESIC and, apply for admission under the Insured Persons(IPs) Quota, along with the marks/merit obtained in the said Centralized Entrance Test, their preference and supportive documents, etc. **under three Groups, as follows:** o **Group-I** : IPs who have been in continuous insurable employment for a minimum period of **five years** as on 1st January of the year of admission and have paid at least 78 days of contribution in each Contribution Period (09), during this **five year** period. o **Group II** : IPs who have been in continuous insurable employments for a minimum period of **four years** as on 1st January of the year of admission and have paid at least 78 days of contribution in each Contribution Period(07), during this **four year** period. o **Group-III** : Ips who have been in continuous insurable employment for a minimum period of **three years** as on 1st January of the year of admission and have paid at least 78 days of contribution in each Contribution Period(05), during this **three year** period.
4.6 ESIC will then prepare a merit list based on the rank/marks of eligible applicants in the specified test/merit list for the year, consistent with the reservation policy of the Central Government for preparation of category-wise inter-se merit.	ESIC will then prepare a merit list **for each Group, i.e. Group-I; Group-II; and, Group-III,** based on the rank/marks of eligible applicants in the specified test/merit list for the year, consistent with the reservation policy of the Central Government for preparation of category-wise inter-se merit.

(emphasis applied)"

(6) The Revised policy also defines 'Insured Person' and its clause 7 reads as follows:-

> 7. Based on the above, the definition of Insured Person for the purpose of availing benefit of preferential admissions to undergraduate(MBBS/BDS) course in ESIC Medical Educational Institutions stands revised as under:
>
> “ *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/four/three** 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/four/three** year period. The Insured Person for the said purpose shall be grouped as Group-I/II/III respectively. The **05/04/03** 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(IPs) 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. For employees who entered the Scheme after 9th June, 2011, the date of entry into the Scheme for the above purpose would be the date of registration available in the IP database of the ESIC. In case there is default or delay on the part of the employer in getting itself or the concerned employee covered under the Scheme, the ESIC will not be responsible for the said default or delay. Any period prior to the date of entry described above would not be counted towards the **05/04/03** year period of eligibility for the purpose of availing benefit of Insured Persons(IPs) Quota.”*

(7) It may be seen from the above reproduced clause that a person should have been in continuous insurable employment for a period of 05/04/03 years as on 1st January of the year of admission for the purpose of

Grouping as Group-I/II/III, respectively.

(8) The case in hand pertains to admission in the year 2017, hence the relevant cut off date was 1st January, 2017. For the purpose of securing Grouping under Group-I, an employee should have been in continuous insurable employment for a period of 5 years as on 1st January of the year of admission. In this manner the petitioner can claim Insured Persons Certificate in Group-I provided that her father remained in insurable employment for a period of five years immediate preceding 1st January of 2017. The father of the petitioner admittedly was insured on 18.03.2012 and he thus falls short of five years' insurable employment as on 1st January, 2017, therefore, the respondent authorities have rightly put the petitioner under Group-II instead of Group I.

(9) The petitioner is otherwise also not entitled to admission as a Group -I candidate. As per the averments made in the written statement, there are 17 candidates who are higher in merit than the petitioner even in Group-I in merit list in the OBC category to which she belongs. There is thus a remote possibility for the petitioner to get admission in the subject course even if she is brought into Group-I.

(10) The petitioner's contention that though her father was insured on 18.03.2012 but retrospectively from October, 2011 does not impress us. Neither the policy contemplates the acquisition of eligibility retrospectively nor it can be permitted, for the benefit has to be granted only from the date when a person had decided to get herself/himself insured.

(11) In the light of the above discussion, we do not find any ground to interfere with the action of the respondents.

(12) The Writ petition is dismissed.

(SURYA KANT)
JUDGE

(SUDHIR MITTAL)
JUDGE

October 31, 2017
sunita

Whether speaking/reasoned Yes/No
Whether Reportable Yes/No