

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

**CWP No.20016 of 2017
Date of decision : 26.10.2017**

Mohit Singh

..... Petitioner

VERSUS

State of Haryana and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL**

Present: Mr. R.A. Sheoran, Advocate
for the petitioner.

Mr. Kapil Bansal, DAG, Haryana.

Mr. Saroj Malakar, Advocate for
Mr. Bhuwan Vats, Advocate for respondent No.2.

SUDHIR MITTAL, J.

The question that arises for determination in this writ petition is whether the non-consideration of the petitioner during the MOP UP round of counseling was justified or not?

2. The petitioner's father was serving in the Army Medical Corps and died on 21.01.2002 while in service. According to the certificate issued by the competent authority his death was attributable to Military Service. Being the ward of a Defence Personnel, who had died while in service, the petitioner applied for admission to the MBBS/BDS course in the Academic Session 2017-2018 at the last stage of MOP UP round only, admission for which was made by the Pandit Bhagwat Dayal Sharma University of Health Sciences, Rohtak, (for short 'University'), in the category of wards of Ex-servicemen, for which there is horizontal

reservation. The said University issued a prospectus for the Session 2017-2018, according to which, 18.07.2017 was the last date for online registration. Two rounds of counseling were to be held followed by a MOP UP round. For the MOP UP round, applicants who had registered themselves till 18.07.2017, but failed to secure admission in the two rounds of counseling, as well as candidates who had not registered themselves till 18.07.2017, could apply. The candidates who had not registered upto 18.07.2017, could make online applications from 20.08.2017 to 24.08.2017. According to the prospectus, a total of 06 seats were reserved for ESM/dependents of Freedom Fighter (FF) category in the General/SC category in the various Govt./Govt. aided Medical/Dental Colleges in the State of Haryana. The petitioner applied on 21.08.2017, i.e., amongst the candidates, who had not applied till 18.07.2017 in the category of ESM/wards of Defence Personnel. He claimed Priority-III (P III) being a ward of Defence Personnel, who died while in service and the death was attributable to the Military Service in accordance with policy dated 10.08.2017 of the State of Haryana (Annexure P-6).

3. The petitioner was not considered during the MOP UP round held on 30.08.2017, as a result of which, he filed CWP No.19782 of 2017 challenging his non-consideration and the same was disposed of vide order dated 31.08.2017 with a direction to the Admission Committee of the said University to decide representation dated 30.08.2017 by passing a speaking order. The said representation has been decided vide order dated 01.09.2017 (Annexure P-9) and has been rejected on the ground that candidates who had registered themselves upto 18.07.2017 were entitled to be considered before consideration of candidates, who had registered from 20.08.2017 to

24.08.2017. The vacancies in the ESM/dependents of Freedom Fighter (FF) category had been filled up from amongst candidates, who had registered themselves upto 18.07.2017 and therefore, the petitioner's claim to admission could not be considered during the MOP UP round.

4. In the present writ petition, the petitioner claims that the vacancies in the ESM/dependents of Freedom Fighter (FF) category were available on 30.08.2017 and that there was no condition in the prospectus that registrants upto 18.07.2017 would be entitled to be considered first and therefore, all applicants for the MOP UP round should have been considered together in accordance with their respective priorities as per policy dated 10.08.2017 (Annexure P-6).

5. Pursuant to notice of motion issued by us, a short reply has been filed on behalf of the Registrar-cum-Chairman of Admission Committee. Reference is made therein to notice dated 20.08.2017, uploaded on the website of the University, whereby it had been clarified that candidates, who had applied from 20.08.2017 to 24.08.2017 would be considered only after exhausting the candidates, who had registered upto 18.07.2017. It is further submitted that from amongst the candidates, who had registered upto 18.07.2017 the quota of ESM/dependents of Freedom Fighter (FF) category was filled up in accordance with priority laid down by the State of Haryana. A chart showing the admissions made in the ESM/dependents of Freedom Fighter (FF) category has been annexed with this short reply.

6. We have heard learned counsel for the parties and have perused the record. According to a communication dated 26.09.2017, sent by the University to the Assistant District Attorney, Rohtak, a copy of which has

been shown to us during the course of the arguments, there were total 23 seats for the category of ESM/dependents of Freedom Fighter (FF) and physically handicapped persons. The State Government policy provided that in case the seats for physically handicapped category remain un-filled, the same can be converted to ESM/dependents of Freedom Fighter (FF) category. This communication further states that total 07 seats were filled up in the category of physically handicapped persons on 03.08.2017 and 10 seats were filled up on 19.08.2017 from amongst wards of ESM/dependents of Freedom Fighter (FF) category by converting un-filled seats from physically handicapped category. Thus, total 06 seats were left to be filled up during the MOP UP round on 30.08.2017 and the same were accordingly filled from amongst the candidates, who had registered themselves upto 18.07.2017. This communication corroborates the chart, which depicts the seats filled up from amongst candidates, who had applied under the ESM/dependents of Freedom Fighter (FF) category and which has been placed on record by the petitioner himself as Annexure P-9 alongwith impugned order dated 01.09.2017.

7. Moreover, the notice dated 20.08.2017, uploaded on the website of the University makes it clear that registrants upto 18.07.2017 were entitled to be considered before the registrants between the period 20.08.2017 to 24.08.2017. There is no apparent illegality in the said notice nor can it be said to be arbitrary. Even though, the petitioner has a higher priority amongst the wards of Ex-servicemen, he could only be considered after exhausting the list of registrants upto 18.07.2017. It is not the case of the petitioner that any admission has been granted from amongst such candidates without taking into consideration their respective priority. The

chart of candidates admitted in the category of Ex-servicemen also shows that admissions have been made strictly in accordance with priority. There is no illegality in the impugned order dated 01.09.2017 (Annexure P-9) and therefore, the present writ petition is dismissed however, without any order as to cost.

(SUDHIR MITTAL)
JUDGE

(SURYA KANT)
JUDGE

October 26, 2017
Ramandeep Singh

Whether speaking / reasoned

Yes / No

Whether Reportable

Yes/ No