

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 23765 of 2016 (O&M)

Date of decision: May 04, 2017

Dr. Deepinder Singh

.. Petitioner

v.

State of Punjab and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Ranjit Singh Kalra, Advocate for the petitioner.

Ms. Munisha Gandhi, Addl. Advocate General, Punjab with
Mr. Sandeep Kumar Bansal, Assistant Advocate General,
Punjab.

Mr. Manish Dadwal, Advocate for respondent No. 3.

Mr. S. S. Saini, Advocate and Mr. Zubin Chhura, Advocate for
Mr. B.B.S. Sobti, Advocate for respondent No. 4.

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Rajesh Bindal J.

The petitioner, who is serving as Medical Officer in a Rural Dispensary of Dayanand Medical College & Hospital, Ludhiana has filed the present petition seeking a direction to the State to grant incentive as provided in Regulation 9 (IV) of the Post-graduate Medical Education Regulations, 2000 (for short, 'the Regulations') for the rural service being rendered by the petitioner for the purpose of admission to Post-graduate Courses. Initially, notification dated 14.10.2016 (Annexure P-8) issued for admission to Post-graduate Courses for the Session-2017 was placed on

record, however, subsequently notification dated 29.3.2017 issued in supersession to earlier notification dated 14.10.2016 was also placed on record.

Learned counsel for the petitioner submitted that the petitioner passed his MBBS examination from Maharishi Markandeshwar University, Mullana in the year 2013. He was appointed as Medical Officer in the rural dispensary of Dayanand Medical College vide letter dated 15.9.2014. Ever since then, he is working there. Regulation 9 (IV) of the Regulations provides for giving incentives to the doctors serving in rural areas for the purpose of determination of their merit on the basis of number of years, a candidate has served in a remote and/or difficult areas. As the petitioner is serving in the rural dispensary being run by Dayanand Medical College from September, 2014 onwards, he is entitled to be given benefit of this period in the form of additional marks. While referring to a Division Bench judgment of this Court in CWP No. 7026 of 2017—Rajesh Kumar and another v. State of Punjab and others, decided on 26.4.2017, he submitted that the criteria laid down by the State in the notification that minimum of 4 years' service in very difficult (Category-D) area or 6 full years (72 months) service in difficult (Category-C) area or an appropriate combination of both has been set aside by this court while holding that benefit is to be granted even for one year service. He further submitted that Dayanand Medical College had been held to be a local authority, hence, the dispensaries/health centres run by it will be covered under proviso to Regulation 9 (IV) of the Regulations for grant of incentive. For the purpose, reliance was placed upon Anandi Mukta Sadguru v. V. R. Rudani and others, (1989) 2 SCC 691; Ravneet Kaur v. The Christian Medical College, Ludhiana, 1997(2) PLR

320 and Dr. Kuldip Singh v. Dayanand Medical College and Hospital Managing Society and others, 2002 (1) PLR 496.

On the other hand, learned counsel for the State submitted that admission to Post Graduate Courses has to be made in terms of the Regulations, as amended upto date, the vires of which has been upheld by Hon'ble the Supreme Court in State of U. P. and others v. Dr. Dinesh Singh Chauhan, (2016) 9 SCC 749. Regulation 9 (IV) of the Regulations provides for giving incentive to the in-service doctors working with Government/ local authority and serving in remote/difficult areas. Dayanand Medical College cannot be said to be a local authority. It has merely been held to be an authority amenable to writ jurisdiction, hence, benefit of service rendered in Health Centre managed by Dayanand Medical College cannot be granted to the petitioner. Reservation of seats is made in the State strictly in terms of Section 6 of the Punjab Private Health Sciences Educational Institutions (Regulation of Admission, Fixation of Fee and Making of Reservation) Act, 2006.

Heard learned counsel for the parties and perused the paper book.

The pleaded facts of the case are that the petitioner passed his MBBS examination from Maharishi Markandeshwar University in the year 2013. On 15.9.2014, he was appointed as Medical Officer in rural dispensary run by Dayanand Medical College. It is claimed that he is serving as such till date. Regulation 9 of the Regulations framed by Medical Council of India, which provides for procedure for selection of candidates for Post Graduate Courses is extracted below:

“9. Procedure for selection of candidates for Postgraduate courses shall be as follows:

I. There shall be a single eligibility cum entrance examination namely 'National Eligibility-cum-Entrance Test for admission to Postgraduate Medical Courses' in each academic year. The superintendence, direction and control of National Eligibility-cum-Entrance Test shall vest with National Board of Examinations under overall supervision of the Ministry of Health & Family Welfare, Government of India.

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III. In order to be eligible for admission to any postgraduate course in a particular academic year, it shall be necessary for a candidate to obtain minimum of marks at 50th percentile in 'National Eligibility-cum-Entrance Test for Postgraduate courses' held for the said academic year. However, in respect of candidates belonging to Scheduled Castes, Scheduled Tribes, Other Backward Classes, the minimum marks shall be at 40th percentile. In respect of candidates as provided in clause 9(II) above with locomotory disability of lower limbs, the minimum marks shall be at 45th percentile. The percentile shall be determined on the basis of highest marks secured in the All-India common merit list in 'National Eligibility-cum-Entrance Test' for Postgraduate courses:

Provided when sufficient number of candidates in the respective categories fail to secure minimum marks as prescribed in National Eligibility-cum-Entrance Test held for

any academic year for admission to Post Graduate Courses, the Central Government in consultation with Medical Council of India may at its discretion lower the minimum marks required for admission to Post Graduate Course for candidates belonging to respective categories and marks so lowered by the Central Government shall be applicable for the said academic year only.

IV. The reservation of seats in medical colleges/institutions for respective categories shall be as per applicable laws prevailing in the States/Union Territories. An all India merit list as well as State-wise merit list of the eligible candidates shall be prepared on the basis of marks obtained in National Eligibility-cum-Entrance Test and candidates shall be admitted to Post-graduate courses from the said merit lists only:

[Provided that in determining the merit of candidates who are in service of Government/public authority, weightage in the marks may be given by the Government/Competent Authority as an incentive at the rate of 10% of the marks obtained for each year of service in remote and/or difficult areas upto the maximum of 30% of the marks obtained in National Eligibility-cum-Entrance Test, the remote and difficult areas shall be as defined by the State Government/Competent authority from time to time.]

On 14.10.2016, Government of Punjab, Department of Medical Education & Research issued notification providing for procedure for

admission to Post Graduate Degree and Diploma Courses for the session-2017. Baba Farid University of Health Sciences, Faridkot was authorised to conduct centralised counselling. Subsequently, revised notification was issued on 29.3.2017.

We do not find any merit in the only contention raised by learned counsel for the petitioner that benefit of service rendered by him in Rural Health Centre managed by Dayanand Medical College should be granted for the purpose of admission to Post-graduate Courses. Regulation 9 (IV) of the Regulations provides for giving incentive for the service rendered in notified remote and difficult areas to the doctors, who are in service of Government/ public authority. By no stretch of imagination, Dayanand Medical College can be said to be a public authority. The judgments relied upon by learned counsel for the petitioner in support of his argument that Dayanand Medical College is a public authority are not applicable. These deal with the term “authority”, which is a different concept altogether. Regulation 9 (IV) of the Regulations talks about service with State/local authority. In the notification dated 29.3.2017 issued by the State, the benefit of incentive of service in remote/ difficult area was restricted to PCMS doctors only. The issue was dealt with by a Division Bench of this Court in Rajesh Kumar and another's case (supra), wherein it was opined that even the doctors, who have been appointed by Panchayati Raj Institutions would be covered in terms of Regulation 9 (IV) of the Regulations for grant of benefits, as these institutions are public authority. Their appointments have been made either by the Government or a local authority. The petitioner's case is altogether different. He is in employment with a private college, which is managing a Rural Health Centre.

For the reasons mentioned above, we do not find any merit in the present petition. The same is, accordingly, dismissed.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

May 04, 2017
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Whether speaking/non-speaking:	Yes/No
Whether reportable:	Yes/No