

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.20590 of 2018
and
WMP.No.24203 of 2018

Minor Shabhareesh, J.A.
Rep. by his father / next friend,
R.Anbalagan (EX-Army) Petitioner

Versus

1. The Union of India,
Rep. by its Secretary,
Ministry of Defence,
Department of Ex-Servicemen Welfare,
Room No.237, B-Wing,
Sena Bhavan,
New Delhi.
 2. The Director,
Medical Council of India,
Pocket -14, Sector-8,
Dwaraka, Phase-I,
New Delhi - 110 077.
 3. The Selection Committee,
Directorate of Medical Education,
No.162, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents 2 and 3 to call for the petitioner to participate in the counselling for the course of MBBS by following the priority guidelines issued by the 1st respondent vide Notification No.6(1)/2017/D(RES-II), dated 21.05.2018 in respect of priority for reservation of wards of Ex-servicemen category by admit the petitioner in a suitable college under the control of the 3rd respondent.

For Petitioner : Mr.N.Vijayabaskar,
for M/s.C.Prabakaran
For Respondents : Mr.G.Baskaran, CGSC, for R1
Mr.V.P.Raman, for R2
Mr.V.Annalakshmi, G.A., for R3

O R D E R

This Writ Petition is filed for issuing a direction to the respondents 2 and 3 to call the petitioner to participate in the counselling for MBBS course by following the priority guidelines issued by the 1st respondent, vide Notification No.6(1)/2017/D (RES-II), dated 21.05.2018, in respect of priority for reservation of wards of Ex-servicemen category, and admit the petitioner in a suitable college under the control of the 3rd respondent.

2. Heard the learned counsel appearing for both sides and perused the materials available on record.

3. The petitioner is a minor, represented by his father, who is an Ex-serviceman. The petitioner's father joined in the Ministry of Defence on 25.09.1987 and after rendering 28 years of service, he was discharged on 31.12.2004 on compassionate ground. The petitioner secured 938 marks in the examination conducted by the State Board of School Examinations, Tamil Nadu.

4. It is stated that the petitioner participated in the National Eligibility-cum-Entrance Test 2018, conducted by the Central Board of Secondary Education (CBSE) and secured 116 marks out of 720 and applied for MBBS course under the Ex-servicemen category. He was not called for counselling. Hence, he has filed this Writ Petition with the aforesaid prayer.

5. From the counter affidavit filed by the third respondent, it is seen that the seats reserved in Special category for the children of Ex-servicemen, is only limited and it is admitted that this year 10 seats were reserved for MBBS and one seat for BDS course. It is also admitted that the Government of India has communicated a circular prescribing the priority list for the wards of Armed Forces Personnel in States / Union Territories for admission to Medical and Professional Courses.

6. The learned Government Advocate appearing for the third respondent produced a copy of Government Order in G.O.(D). No.977, Health and Family Welfare (MCA-1), Department, dated 01.06.2018, wherein, priority status of Ex-Servicemen category

is prescribed. Candidates who are eligible under Ex-Servicemen category, were categorised based on priorities. The candidates, who come under priority-I, will be given preference than other candidates as per the order of priority. Admittedly, the petitioner comes under the priority VI.

7. It is seen that based on the letter issued by the Joint Secretary, Government of India, Ministry of Defence, list of priorities for reservation or preference to the wards of Armed Force Personnel by States and Union Territories, Central and State Universities has been given and the State Governments were requested to approve the priority list. Accordingly, G.O.Ms.No.977, Health and Family Welfare (MCA-1), Department, dated 01.06.2018, was issued, with the following categories:-

"Priority - I Widows / Wards of Defence personnel killed in action

Priority - II Wards of disable in action and boarded out from service

Priority - III Widows / Wards of Defence personnel who died while in service with death attributable to military service.

Priority - IV Wards of disabled in service and boarded out with disability attributable to military service.

Priority - V Wards of Ex-Servicemen who are in receipt of Gallantry Awards.

- i) Param Vir Chakra
- ii) Ashok Chakra
- iii) Sarvottam Yudh Seva Medal
- iv) Maha Vir Chakra
- v) Kirti Chakra
- vi) Uttam Yudh Seva Medal
- vii) Vir Chakra
- viii) Shaurya Chakra
- ix) Yudh Seva Medal
- x) Sena, Nau Sena, Vayu Sena Medal
- xi) Mention-in-Despatches.

Priority - VI Wards of Ex-servicemen."

8. The petitioner comes under the priority VI, viz., son of Ex-servicemen. As per inter-se merit, the candidates who apply as wards of Ex-servicemen category, can be considered only under Priority VI. It is stated by the respondents that other candidates, who applied under Ex-servicemen category, were ranked according to their priorities under Ex-servicemen quota as per the said G.O. and that the

General Rank of the petitioner is 22462. Since the petitioner does not come under the top 60 candidates, he has not been called for the counselling on 01.08.2018, which was specifically conducted for the Special categories.

9. Thus, the petitioner who has obtained General Rank of 22462, cannot be considered for admission under Ex-servicemen category. Since the respondents have followed G.O.Ms.No.977, Health and Family Welfare (MCA-1), Department, dated 01.06.2018, which is passed based on the instructions from the Ministry of Defence, this Court is unable to see any arbitrariness or unfairness in giving priority to the candidates who applied under the Ex-servicemen Quota as per the priority list. Since, the petitioner is found ineligible, this Court is unable to entertain this Writ Petition. As a result, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

pvs

To

1. The Secretary,
The Union of India,
Ministry of Defence,
Department of Ex-Servicemen Welfare,
Room No.237, B-Wing,
Sena Bhavan, New Delhi.

2. The Director,
Medical Council of India,
Pocket -14, Sector-8,
Dwaraka, Phase-I,
New Delhi - 110 077.

3. The Selection Committee,
Directorate of Medical Education,
No.162, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.

+1cc to Mr.E.Prabakaran, Advocate, S.R.No. 61705
+1cc to Mr.V.P.Raman, Advocate, S.R.No. 61869
+1cc to Mr.G.Baskaran, Advocate, S.R.No.61874
+1cc to the Government Pleader, S.R.No. 62156

W.P.No.20590 of 2018

GN (26/09/2018)



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