

CWP No.4696 of 2018

[1]

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

**CWP No.4696 of 2018
Date of decision:01.03.2018**

Dr. Shaina Aggarwal

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Ashok Paul Batra, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner obtained her MBBS degree from Padmashree Dr. D.Y. Patil Medical College, Pune. She was appointed as a Medical Officer in the State of Haryana on 13.09.2013 and was posted in GHC, Kalka from 16.09.2013 to 09.07.2017 and is presently posted at Government Dispensary, Panchkula. The petitioner has also completed the Certificate Course in Emergency Obstetric Care from the Indian College of Obstetricians and Gynecologists. It is alleged that the State of Haryana has issued a policy to regulate transfers and postings of Doctors in the Health Department, in which it is provided that *“a Doctor with postgraduate qualification and those who have been trained in LSA/EMOC/USG Training will not be posted in PHCs”*. It is also submitted that the Government of Haryana has issued the instructions on 04.03.2014 on the subject “Higher Studies Policy (Post Graduate Level) for Doctors”. The relevant portion of the said letter is as under:-

“1. In case of those doctors who had acquired a PG diploma before entering the service and went to appear for Post Graduate

Degree in any stream mentioned in this policy, the mandatory rural service of two years will not be required. Similarly, doctors who have been trained in LSA/Emoc and Ultrasound are also exempted from condition of rural service of two years. However, both these categories will be required to complete four years of regular satisfactory qualifying service.”

It is further averred that the petitioner has obtained 456 marks out of 1200 in NEET-PG-2018. She has referred to the notification issued by the Government of Haryana, Department of Medical Education and Research dated 09.02.2018 for admission to MD/MS/PG Diploma and MDS in Government/Government/Added/Private Medical and Dental Education Institution including those under SGT University, Budhhera, Guru Gram, Private University for Academic Sessions 2018-2019 and as per this notification, the in-service candidates will be entitled for an incentive @ 10% of the marks obtained in NEET-PG Exam for each year of their service in the remote and or difficult areas notified vide notification dated 17.01.2018 notified by the General Administration Department and the notification dated 23.01.2018 issued by the Health Department, Haryana, upto the maximum of 30% of the marks obtained in NEET PG Exam. It is further submitted that the petitioner, being trained in LSA/EMOC, was not posted in PHCs and as per the Higher Studies Policy (Post Graduate Level) for Doctors, she was exempted from rural service of two years. It is submitted that the petitioner was not posted in the rural area because of the Higher Studies Policy (Post Graduate Level) for Doctors and as such, she has been deprived of the incentive of 30% marks in addition to the marks obtained by her in NEET PG Exam. Thus, it is submitted that the petitioner has been illegally deprived of the additional 30% incentive marks because of the transfer policy of the State and has prayed for a

direction to grant 30% incentive marks to the petitioner.

After hearing learned counsel for the petitioner and examining the available record, I am of the considered opinion that the additional 30% incentive marks are meant for the candidates who had rendered the rural service, whereas the petitioner had admittedly not rendered any rural service. Thus, the petitioner cannot claim double benefits in the garb of condemning the transfer policy of the State as per which she has been given the benefit of not serving in the rural area on the basis of her academic qualification and at this stage, once she has already obtained the said benefit, she cannot be allowed to turn around and condemn the transfer policy for the purpose of taking other advantage of additional 30% incentive marks, which are only meant for the in-service doctors who had served in the rural area.

In view of the above, the present petition is hereby dismissed being denuded of any merit, though without any order as to costs.

March 01, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No