

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

LPA No. 467 of 2018 (O&M)

Date of Decision : 02.04.2018

Dr.Shaina Aggarwal

....Appellant

Versus

State of Haryana and others

....Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR.JUSTICE RAJBIR SEHRAWAT

Present: Mr.Namit Gautam, Advocate
for the appellant.

MAHESH GROVER, J. (Oral)

This appeal is directed against the judgment of the learned
Single Judge dated 01.03.2018.

The appellant is a qualified doctor from a recognized institution. Along with her essential qualification of MBBS she has completed a Certificate Course in Emergency Obstetric Care from the Indian College of Obstetricians and Gynecologists (for short 'EMOC'). The policy of the Government provides that a doctor with Post Graduate qualification and those who have been trained in LSA/EMOC/USG Training will not be posted in Primary Health Centres. Another policy of the Government prescribes that those doctors who have acquired a PG Diploma before entering the service and want to appear for post graduate degree in any stream mentioned in the said policy, the mandatory rural service of two years will not be required. For the purpose of reference, the relevant clause of the policy is extracted herebelow :-

“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.”

There is in force a policy of the Government which makes rural service and service in difficult areas essential and entitling them to 30% affirmative advantage at the time of consideration for post graduation.

The grievance of the appellant is that on account of the restrictive policy of the State Government the appellant could not serve in rural/difficult areas and there being no fault of the appellant she cannot be deprived of the advantage of 30% incentive marks admissible to those who have served in rural/difficult areas.

The learned Single Judge opined that the appellant cannot be permitted dual advantage, firstly of enjoying the tenure in cities with no discomfort in contrast to those who served in rural/difficult areas and claim advantage of marks at the same time.

Before us learned counsel for the appellant has contended that it is the State Government which prescribes a policy to which there was complete adherence by the appellant and having done so the appellant cannot be deprived of 30% incentive marks admissible to those incumbents who have served in rural areas.

After hearing the learned counsel for the appellant, we are of the opinion that there is hardly any merit in the case set up. We do not find any case of reverse discrimination. The appellant was conscious of the policies of the Government and chose to abide by it which evidently meant that she being fully aware of the advantage likely to ensue to incumbents who served in rural areas. The clause extracted above merely exempts an incumbent from the condition of serving in rural areas for two years and adequately expands the period to four years for such people exempted from rural service. Therefore, there is an element of balancing the two situations which would suggest lack of discrimination or an inference of arbitrariness.

No ground to interfere.

Dismissed.

CM-1277-LPA-2018 moved for leading additional evidence is also dismissed as the policy dated 19.03.2018 now sought to be placed on record was not produced before the learned Single Judge.

(MAHESH GROVER)
JUDGE

02.04.2018
dss

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No