

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.47414 of 2018

ORDER:

With the consent of both the parties, this Writ Petition is disposed of at the admission stage.

This Writ Petition is filed for the following relief:

“.....Writ of Mandamus declaring the action of the respondent in issuing a selection list dated 23.11.2018, in not selecting/appointing the petitioner to the post of General Duty Medical Officer is illegal, arbitrary, violation of the rule of reservation (roaster point) and as well as the fundamental right guaranteed under the Constitution of India and set aside the same and consequently direct the respondent to appoint the petitioner as a General Duty Medical Officer and pass such other.....”

Heard Sri A.Jagan, learned counsel for the petitioner and Sri J.Srinivas Rao, learned Standing counsel for respondents.

It has been contended by the petitioner that the respondents have issued Notification No.1/2018 dated 25.07.2018 inviting applications for the post of General Duty Medical Officers notifying 30 posts. As per the said notification, 11 posts were earmarked for unreserved category open to both local and non-local and of such 11 vacancies, four (04) were earmarked for OC, one (1) for OC-Women and in all five (05) posts were to be filled up from among the OC non-local category. Petitioner further contends that he is fully eligible and qualified to be appointed as General Duty Medical Officer and has participated in the selection process. Thereafter, the

respondents have published merit list dated 23.11.2018 and as per the said list, his name was placed at Sl.No.16 and among OC non-local cadre, he was placed at Sl.No.6.

He further contends that as unreserved posts are available to both local and non-local candidates, the first five posts in the merit list are to be filled up with meritorious candidates and rest of the posts based upon the roster point. Petitioner further contends that if the respondents have followed the said procedure, he would have selected for employment as General Duty Medical Officer but because the respondents have not followed the said procedure, his case could not be considered. Therefore, he contends that impugned selection list is liable to be set aside and seeks a direction to the respondents to consider his case for appointment to the post of General Duty Medical Officer as he is the 5th meritorious OC non-local candidate and he can be accommodated in the 5th vacancy earmarked for OC non-local category.

Learned counsel for the petitioner contends that appropriate orders be passed in the writ petition directing the respondents to consider the case of the petitioner for appointment to the post of General Duty Medical Officer in the slot earmarked for un-reserved non-local OC candidates.

Learned Standing counsel appearing for the respondents contends that merit list has been published strictly in accordance with the notification issued by the respondents and as per the said notification, 11 posts were to be filled up from

the un-reserved category which consists of local as well as non-local candidates (OC 4 + 1, OCW-1, BC-B 1, BC D-2, BC-E 1, SC-1). He further contends that a perusal of the merit list, which is filed at page No.14 along with writ petition would make abundantly clear that five posts were ear marked for unreserved OC non-local candidates and that the candidates at Sl.Nos.1, 8, 9, 12 and 15 in the merit list have been accommodated in OC unreserved non-local category and admittedly petitioner is standing at Sl.No.16 (6th among the OC-non-local candidates). He further contends that one B.Ugandhar who is at Sl.No.15 in the merit list was considered for the 5th vacancy ear-marked for unreserved OC non-local category as he secured the same marks as that of petitioner and also older in age than the petitioner. As per the notification, when only five unreserved OC-non-local posts are ear-marked, the question of considering the petitioner in unreserved OC non-local category would not arise as he stands at Sl.No.6 among the OC non-local candidates. Hence, there are no merits in the writ petition and the same is liable to be dismissed.

This Court, having considered the rival submissions made by the learned counsel on either side, is of the considered view that when 5 posts were ear-marked for unreserved OC non-local candidates and the respondents have filled up the said posts with OC non-local candidates who are placed at Sl.Nos.1, 8, 9, 12 and 15 following the Rules and Reservation, the question of considering the case of the petitioner, who is 6th among the OC

non-local candidates, would not arise, since, admittedly, petitioner is not within the zone of consideration of 5 OC non-local posts.

Therefore, this Court is not inclined to interfere with the impugned selection list and accordingly the writ petition is dismissed. No costs.

As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

11.07.2019
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