

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

CWP No.4684 of 2019 (O&M)

Date of Decision : 05.04.2019

Dr.Gaurav Naib

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE LALIT BATRA

Present : Mr.Dinesh Mahajan, Advocate
for the petitioner.

Mr.Suveer Sheokand, Addl.AG, Punjab.

Mr.Nitin Kaushal, Advocate
for respondents No.2 and 3.

...

MAHESH GROVER, J.(O)

This writ petition is taken on board in view of the request made in CM-5142-CWP-2019 for preponement.

The prayer made in the petition is to quash the notification dated 25.01.2018 by which an incentive of upto 30% marks is contemplated for candidates who have rendered rural services without correspondingly mentioning that incentive of 10% should be accountable for each year as well while maintaining the cap of 30% which though has been prescribed but with an insistence that marks will be given only on completion of the period laid down in the notification. In short give marks for each year whether a person completes the qualifying period or not.

To understand the grievance of the petitioner it is necessary to acknowledge a fact that the petitioner has been working as a Medical Officer at CHC Ghuman in regular PCMS Cadre since 2014. He was transferred to Ranjit Sagar Dam Hospital, Shahpur Kandi Township,

Pathankot in the year 2015 and is continuing to discharge his functions thereafter.

The respondents in order to give effect to the incentivisation scheme as per MCI guidelines inserted the following clause in their brochure :-

“ii. Has completed 4 full years (48 months) 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. In case of candidates who have completed 5 full years (60 months) of service (as on 01.01.2012), they should have completed 2 full years (24 months) of service in most difficult areas or 3 full years (36 months) of service in difficult areas. Very difficult (Category D)/Difficult (Category C)/Most Difficult/Difficult area, as the case may be, shall be as defined by Department of Health & Family Welfare, Government of Punjab.”

The MCI guidelines which lay the foundation for the aforesaid clause are as follows :-

“(4)The reservation of seats in Medical Colleges/institutions for respective categories shall be as per applicable laws prevailing in 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 the marks obtained in National Eligibility-cum-Entrance Test and candidates shall be admitted to Postgraduate 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 upto 10% of the marks obtained for each year of

service in remote and/or difficult areas or Rural areas upto maximum of 30% of the marks obtained in National Eligibility-cum- Entrance Test. The remote and/or difficult areas or Rural areas shall be as notified by State Government/Competent authority from time to time.”

Learned counsel for the petitioner contends that the MCI guidelines provide an incentive of 10% of the marks obtained, for each year of service in remote or difficult areas or rural area upto a maximum cap of 30% and the only interpretation that can be lent to it is that a person necessarily would be entitled to marks of 10% for each year and if the clause in the brochure is read it deprives an incumbent of these marks in view of the qualifying period of service prescribed for difficult/rural/most difficult areas.

A careful perusal of the condition in the brochure reveals that an incumbent would be entitled to a scheme of incentivisation if he has completed 4 full years (48 months) service in very difficult areas which has been described as Category 'D', or in the alternative 6 full years (72 months) service in difficult areas categorised as 'C' or an appropriate combination of both. In the case of candidates who have completed 5 full years (60 months) service (as on 01.01.2012) they should have completed 2 full years in most difficult areas or 3 full years in difficult areas. It is apparent that the guidelines of the MCI resonate in the clause of the brochure and the only thing that has been done by the respondents while incorporating the spirit of MCI guidelines is to prescribe various periods and that too harmoniously so that a person who has served in most difficult areas, difficult areas get the requisite benefit with appropriately prescribed period. We, therefore, do not find any conflict with the condition impugned and rather find that it is in

complete consonance with the spirit of the guidelines prescribed by the MCI.

No ground to interfere.

Consequently, CM-5142-CWP-2019 is allowed and the writ petition stands dismissed.

All the pending applications also stand disposed of.

(MAHESH GROVER)
JUDGE

05.04.2019
dss

(LALIT BATRA)
JUDGE

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