



2023:DHC:6231

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10078/2023**

Date of Decision: **25.08.2023****IN THE MATTERS OF:**

BIMMI KUMARI,
D/O LATE JAGANNATH PRASAD YADAV,
R/O C/403, ROYAL GARDEN APARTMENT,
NAGESHWAR COLONY, PATNA – 800001

..... PETITIONER

Through: Mr. Animesh Kumar, Mr. Nishant
Kumar, Ms. Aprajita, Ms. Harshita
Sinha and Mr. Ayush Kumar,
Advocates.

Versus

NATIONAL BOARD OF EXAMINATION
IN MEDICAL SCIENCE
THROUGH ITS DIRECTOR
MEDICAL ENCLAVE, ANSARI NAGAR,
MAHATMA GANDHI MARG, RING
ROAD NEW DELHI - 110029
ALSO AT;
DABRI - GURGAON ROAD, NEAR DISTRICT COURT,
DWARKA 9 ROAD, PSP AREA,
NEW DELHI- 110075

.....RESPONDENT NO.1

CENTRAL SUPER SPECIALITY HOSPITAL
THROUGH ITS DIRECTOR
(MINISTRY OF RAILWAYS, UNION OF INDIA)
EAST CENTRAL RAILWAY, NEAR KARBIGAHYA
RAILWAY STATION, KARBIGAHYA PATNA

Signature Not Verified
Digitally Signed By: PRIYA
Signing Date: 31.08.2023
14:28:17

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By: PURUSHAINDRA
KUMAR KAURAV

BIHAR- 800001

.....RESPONDENT NO.2

Through: Mr. Pradeep Kumar Jha, Sr. P. C. with
Mr. Amit Acharya, G.P. for R-2/ UOI.

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petitioner in the instant writ petition seeks for the direction to set aside the e-mails dated 05.07.2023 and 19.07.2023 issued by respondent no.1/National Board of Examination (*hereinafter referred to as "NBE"*). The petitioner has also prayed for other reliefs including directions to the respondents to grant permission to the petitioner to continue the DNB Diploma course in Obstetrics and Gynaecology (*hereinafter referred to as Obs-Gynae*) at Central Super Specialty Hospital, Patna (*hereinafter referred to as CSSH, Patna*) for the Academic Year 2022-24, with an extension of six months.

2. The facts necessary for the disposal of the instant writ petition would indicate that the petitioner is working as a Medical Officer in *CSSH, Patna*. The petitioner appeared in NEET-PG-2022 examination and she secured a rank of 104888. It appears that there is a specific quota for the NEET PG qualified doctors who are working in Railway Hospitals and they are allotted DNB seats on the basis of their internal counselling to be admitted against NEET PG allotment. The petitioner qualified in the internal counselling of railway and on the basis of her merit, she was allotted a seat in DNB (Diploma) in Obs-Gynae course in *CSSH, Patna* for the Academic Year 2022-24.

3. Once the seat was allotted to the petitioner, she applied for two years of study leave to respondent no.2 for completing the DNB course *vide* letter dated 12.07.2022. Various reminders were sent by the petitioner and eventually, she had to submit a fresh application dated 09.06.2023 for sanction of study leave of twelve months from 12.06.2023 to 11.06.2024 which came to be accepted *vide* communication dated 20.06.2023.

4. The petitioner, thereafter, sent the letter of intimation of the said sanctioned leave to the NBE for allowing her to complete the course. It is to be noticed that awaiting the response/sanction from the employer, certain formalities were required to be conducted by the petitioner with NBE.

5. As per the case of the petitioner, it is submitted that on 05.11.2022 she had submitted various information for registration in DNB diploma in *Obs-Gynae* at CSSH/ECR/Patna for the Academic Year 2022-24. Pursuant thereto, the acknowledgment was generated by NBE on 07.11.2022 and 09.11.2022 and the petitioner was asked to provide the details in a format attached along with the said mail. The petitioner submitted that she had attached the fully filled Allotment Data Format on 09.11.2022. The said mail was also acknowledged by NBE on the same date i.e. 09.11.2022.

6. Learned counsel for the petitioner, submits that in the relevant data submitted before NBE, the date of joining was mentioned as 05.11.2022. Accordingly, when the concerned diploma classes were started, the petitioner was also provided the link for the scheduled webinars etc. All those communications have been brought on record starting from 27.04.2023 onwards. Learned counsel, therefore, submits that notwithstanding the request of the petitioner for sanction of the study leave being pending with respondent no.2, the petitioner for all practical purposes started attending

classes as a diploma student with NBE. It is then contended that once, the certificate of sanction of leave was submitted before the NBE, the NBE without considering all relevant facts and circumstances, refused to allow the petitioner to complete the said course.

7. A perusal of the impugned decision dated 05.07.2023 would indicate that as per the NBE, the scheduled date of joining for in-service candidate for 2022 admission session was 14.01.2023. According to NBE, the petitioner joined on 20.06.2023. It has, therefore, been decided that joining after five months from the scheduled date of joining is not acceptable. In terms of the communication dated 19.07.2023, the same has been reiterated and the further request of the petitioner has been declined.

8. Learned counsel appearing on behalf of the petitioner submits that for all practical purposes, the date of joining of the petitioner is 05.11.2022 as can be seen from the documents placed on record as (*Annexure P-6*). The aforesaid data was duly submitted before NBE. He further submits that if there was objection with respect to the aforesaid data, the same should have been immediately pointed out to the petitioner. According to him, the respondent cannot deny the petitioner to continue with the course on account of the delayed sanction of leave by respondent no.2.

9. Learned counsel for the petitioner contends that in the instant case, admittedly, a sanctioned leave has been granted in favour of the petitioner and the petitioner did complete formalities with NBE and, therefore, at this stage, if the petitioner is not allowed to complete the course, she would suffer irreparably.

10. Learned counsel for the petitioner, therefore, prays that the benefit of Clause 7 of the Leave Rules for DNB/FEB Trainees dated 20.03.2018, be

given to the petitioner, treating her to be a candidate in extraordinary hardship. He submits that the petitioner is aged about 54 years and has secured higher merit not only in NEET PG 2022 examination but has also been found meritorious in the internal counseling of the railway and it would be unjust to deny her to continue studying in the said course.

11. Having heard learned counsel appearing on behalf of the parties and in view of the peculiar facts and circumstances of the instant case, it is seen that NBE can certainly consider the case of the petitioner and grant appropriate extension up to the permissible limit.

12. It is seen that *prima facie*, the leave rules are applicable to the candidates who have already joined the college within the prescribed time period. The instant case is not one where the petitioner did not complete any formality of joining the said course. The petitioner did send the mail and submit the necessary information in the prescribed format, as intimated by NBE. It is only on account of the delayed certificate being issued by respondent no. 2 that the petitioner is facing difficulty.

13. Therefore, it is directed that NBE shall within 30 days receipt of this order consider the case of the petitioner sympathetically as to whether she can be allowed allow to complete the course with appropriate extension in accordance with the Leave Rules for DNB/FNB Trainees.

14. In view of the aforesaid, no further directions are required to be given.

15. The instant petition is accordingly disposed of.

PURUSHAINDRA KUMAR KAURAV, J

AUGUST 25, 2023

P/ss