

39. 10.08.2023
Ct. No.238
Tanmoy

WPA 16306 of 2023

**Nazrul Mollah
-Versus-
The State of West Bengal & Ors.**

Mr. Kallol Bose, Adv.

...for the petitioner.

Mr. Biswabrata Basu Mallick, Ld. AGP.,
Mr. Ratul Biswas, Adv.

...for the State.

Mr. Indranil Ray, Adv.,
Mr. Sunit Kr. Ray, Adv.

...for the National Medical Commission.

Let the report filed by the State and the exception thereto, taken by the petitioner by way of an affidavit, be kept with the records.

The petitioner seeks to avail the benefits of a Notification dated October 8, 2021, regarding in-service quota in post graduate medical and dental and post doctoral medical counseling for State Quota Seats in Government/Private Colleges in West Bengal.

It is the case of the petitioner that he served at Jangipur sub-division, Murshidabad about four years ago. According to the petitioner, such service entitles him to seek the benefit of the aforesaid notification dated October 8, 2021. The said notification, *inter alia*, provides that the doctors, who have served the difficult areas, are entitled to avail the benefit of in-service quota for admission to post graduate courses.

It is not in dispute that the Jangipur sub-division has not been notified as a difficult area in the notification dated October 8, 2021. The petitioner, however, places reliance upon a notification dated 09.11.2011, in particular clause 5 thereof, to suggest that Jangipur sub-division has been notified as a 'difficult area' for the purpose of transfer of Medical Officers in the State.

It is the submission of Mr. Bose, learned Advocate appearing for the petitioner that since Jangipur finds mention in the notification dated November 9, 2011 as a 'difficult area', for the purpose of getting the benefit of in-service quota also, the Jangipur should require to be treated as "difficult area".

Mr. Bose further submits that transfer is a mode of appointment and therefore, for the purpose of availing the in-service quota benefit, the said transfer policy should be made applicable as an incentive.

I am not in a position to accept the submission of Mr. Bose that a policy related to transfer and a policy related to give incentive for admission to higher medical studies stand on a same footing. Transfer is a incident of service while incentive for higher studies are given as a departure from the normal rule. The rationale underlying transfer policy therefore differs from that underlying a policy aimed at conferring of benefits related to higher studies.

In that view of the matter, I am not inclined to accept the contention of the petitioner that Jangipur sub-division should be treated as a difficult area for the purpose of availing the in-service quota benefit in higher studies since it has been classified as a 'difficult area' in the transfer policy.

Accordingly, WPA 16306 of 2023 is dismissed.

(Kausik Chanda, J.)