

16.01.2023

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WPA 21441 of 2017

Prakash Kumar Singh

Vs.

Employees' State Insurance Corporation & Others

Mr. U. N. Betal

... For the petitioner.

Mr. Indranil Roy

Mr. Sumit Kumr Roy

... For National Medical Commission.

Mr. Soumitra Banerjee

... For the respondent nos. 1-5.

There was 69 days' contribution to the Employees' State Insurance Corporation to the credit of the father of the petitioner for the period from 1st October, 2015 to 31st March, 2016. As per applicable rules there should have been 78 days' contribution to his credit for the said period. Due to such short fall, the petitioner was declined the admission to MBBS course as a ward of insured person.

By an interim order dated July 31, 2017 a coordinate Bench of this Court permitted the petitioner to take admission to MBBS course without prejudice to rights and contentions of the parties. It was observed in the said interim order that the same should not create any equity or right in favour of the petitioner and whether or not he was entitled to continue on the

MBBS course would abide by the final decision of the writ petition.

When the matter is taken up for hearing today, it has been intimated by the learned advocate for the petitioner that pursuant to the interim order, the petitioner has completed his MBBS course from Employees' State Insurance Corporation Medical College at Joka and now he is doing the internship.

It has also been submitted on behalf of the petitioner that the Provisional Registration Certificate has already been granted by West Bengal Medical Council in favour of the petitioner.

Mr. Soumitra Banerjee, learned advocate appearing for the respondent nos. 1 to 5 submits that despite several communications being made, no definite stand of the said respondents has been communicated to him. It has been submitted by Mr. Banerjee also that the petitioner has completed his MBBS course successfully and now he is doing the internship. Written instruction filed by Mr. Banerjee be kept with the records.

The employer, respondent no. 8 is not represented. No affidavits have been used by any of the respondents.

Since no affidavit has been filed by any of the parties, I accept the stand of the petitioner that since

respondent no.8, the employer of the petitioner's father, was undergoing a suspension of work at the relevant point of time, the employer's contribution could not be deposited.

The petitioner's father, in such case, was not at fault. It is not in dispute that out of nine contribution periods, for eight periods, the petitioner's father had more than the requisite contribution of 78 days to his credit. Only for shortage of nine days' credit in a particular contribution period, and that too for no fault on his part, the petitioner cannot be denied the right of admission to MBBS course.

In that view of the matter, I am of the view that petitioner's admission to MBBS course does not call for any interference. The interim order dated 31st July, 2017 is accordingly confirmed and the WPA 21441 of 2017 is allowed.

There will be no order as to costs.

Urgent certified *website* copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Kausik Chanda, J.)