

WPA 17590 of 2019
With
IA No. CAN 1/2020 (Old No. CAN 5384/2020)

Mir Asif Ikbal
Vs.
Central Council of Homoeopathy & Ors.

Ms. Arunima Lala,
Ms. Natasha Roy

...for the Petitioner

Mr. D. N. Maity,
Mr. S. Sarkar

...for W.B.U.H.S.

Mr. Debapriya Gupta

...for National Commission for Homoeopathy

The petitioner is aggrieved by a communication dated December 6, 2017, whereby his prayer to join as an intern at D. N. De Homoeopathic Medical College and Hospital was rejected by the Central Council of Homoeopathy.

Admittedly, the petitioner obtained his BHMS degree from West Bengal University of Health Sciences in the year 2010. After completion of the said course, though he started working as an intern at D. N. De Medical College and Hospital, due to personal reasons, he could not continue his internship at the said college.

It appears that in the year 2011, he made a representation before the said college for resumption of his internship. The college did not respond. Again in the year 2017, he made a representation before the Central Council of Homoeopathy for permission to work at the

said Medical College as an intern.

The prayer of the petitioner was turned down by National Commission for Homoeopathy observing as follows :-

“With reference to your letter dated 24-08-2017 (received on 29.08.2017), on the subject cited above, I am to say that a similar matter was considered by the Central Council in its meeting held on 16th August, 2013, and it decided that condonation of delay in completion of internship of one year may be considered if it is within 11 years from the date of admission till completion of internship and if it is beyond 11 years than no relaxation may be given.”

It has been submitted by Mr. Gupta, learned advocate appearing for National Commission for Homoeopathy that there is no scope to take a second view in this matter. According to Mr. Gupta, the petitioner was required to complete his internship within 24 months from the date of passing, as per Homoeopathy (Degree Course) BHMS Regulations, 1983 as amended up to June, 2005.

The petitioner has approached the Council long after the two-year period specified in the said Regulations. Therefore, there is no scope to consider his case.

It appears that the case of the petitioner was rejected on the basis of the Homoeopathy (Degree Course) Amendment Regulation, 2010 which, inter alia, provides

that every candidate shall complete the course including the passing of examination in all subjects and complete the compulsory internship training, within eleven years from the date of admission in First B.H.M.S. Degree Course at the college concerned, failing which his name shall be removed from the rolls of the college.

The order impugned in this writ petition cannot be sustained as the said Regulations of 2015 came into force on 13th July 2015 and only applicable to the students who were admitted in BHMS (Degree Course) from the commencement of the academic session of 2015-2016.

The petitioner is governed by the Homoeopathy (Degree Course) BHMS Regulations, 1983 as amended up to June, 2005 since he took admission in the year 2010.

According to the said Regulation of 1983 each candidate needs to complete internship training within a period of 24 months of passing his final year examination.

Admittedly, the petitioner could not complete the internship training within 24 months after passing the final year of examination.

Ms. Arunima Lala, learned advocate appearing for the petitioner has drawn attention of this Court to the provision in the Regulations of 1983 which provides for the "Power to Relax." The said provision reads:-

"Where any University, or Medical institution in India which grants medical qualification, is satisfied that

the operation of any of these regulations causes undue hardship in any particular case, that University or Medical Institution as the case may be, may by order, for reasons recorded in writing dispense or relax to requirement of that regulation in such an extent and subject to such exceptions and conditions as it may consider necessary for dealing with the case in a just and equitable manner. Provided that no such order shall be made except with the concurrence of the Central Council.”

The authority ought to have decided the representation of the petitioner in accordance with Homoeopathy (Degree Course) BHMS Regulations, 1983 as amended up to June 2005.

Accordingly, I dispose of this writ petition granting liberty to the petitioner to make a representation before respondent no.3, Teacher-in-Charge, D. N. De Homoeopathic Medical College & Hospital for relaxation of the condition to complete the internship within a period of 24 months after passing the final year examination.

If such representation is made, the same shall be considered by the college in terms of Rule 14 of the Homoeopathy (Degree Course) BHMS Regulations, 1983 as amended up to June, 2005 within one month from the date of communication of this order. If the college decides the representation in favour of the petitioner, it shall seek concurrence from respondent no. 1. The respondent no.1 shall consider granting concurrence within two weeks

thereafter.

Accordingly, WPA 17590 of 2019 and IA No. CAN 1/2020 (Old No. CAN 5384/2020) are disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Kausik Chanda, J.)