



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12768 OF 2023

Dr. Santosh Kerba Gaikwad }
age-45, Occupation – Service }
R/o Adhegaon, Madha, Solapur, }
Maharashtra-13 212. } ...Petitioner

V/s.

The State of Maharashtra }
through G.P (OS), Mumbai }
2. State Common Entrance Test Cell }
8th floor, Excelsior Building, A.K. }
Nayak Marg, Fort, Mumbai-400 001 }
3. Directorate of Health Services }
Maharashtra }
8th floor, Arogaya Bhavan, St. George }
Hospital Compound, P.D. Mello }
Road, Mumbai – 400 001. } ... Respondents

Mr. Shrijeet Raorane for petitioner.

Mr. N.C. Walimbe – AGP for respondent nos. 1 and 3-State.

Mr. Sameer Khedekar for respondent no. 2 ET Cell.

CORAM : SUNIL B. SHUKRE &
FIRDOSH P. POONIWALLA, JJ

DATE : 13th OCTOBER 2023.

ORAL JUDGMENT : (PER SUNIL B. SHUKRE, J)

1. Heard.

2. Rule. Rule made returnable forthwith. Heard finally by

consent of learned counsel for the respective parties.

3. It is the contention of learned counsel for the petitioner that even though the petitioner, a Government Medical Officer and a candidate who has appeared for NEET, (PG) 2023 Examination under in service quota, is entitled to get the benefit of incentive marks for the reason that the petitioner has completed three years in the service prior to the present examination, the petitioner has not been given benefit of incentive marks by respondent no. 3 on the ground that the service book of the petitioner was not made available for verification to respondent no. 3.

4. Learned counsel for the petitioner further submits that those candidates whose score was lesser than the score of the petitioner in NEET, (PG) 2023 Examination have been granted admission to Post Graduate Courses and this would show that the benefit of incentive marks has not been given to the petitioner although there is a recommendation of Directorate of Health Service Mumbai to allot 30% incentive marks to the petitioner (page 32). He also submits that petitioner had made a representation on 9th October 2023 to respondent no. 2, but it has not been decided appropriately so far.

5. We find that there is a representation made by the petitioner on 9th October 2023 to respondent no. 2 requesting respondent no. 2 to consider the case of the petitioner by giving him benefit of incentive marks, which representation appears to be pending.

6. Learned counsel for the respondent no. 2 submits that in the initial CAP rounds, the petitioner was not found to be eligible for in service quota, for want of fulfillment of some condition by the petitioner, but later on the petitioner was considered as eligible for in service quota candidates because the petitioner subsequently fulfilled all the necessary conditions. In support he invites our attention to the communication of respondent no. 2 dated 7th October 2023, which does show that the petitioner, declared as not eligible earlier, was found to be eligible for admission in, in - service quota for MD PSM.

7. Learned counsel for the respondent no.2 submits that by the time the eligibility of the petitioner as in service candidate was determined, CAP rounds except for stray vacancy round were over and therefore, now the petitioner, at the most, can be considered for admission in the stray round which has commenced from 11th October 2023 and which shall come to an end on 15th October 2023.

8. In view of the above, we find that atleast now the petitioner could be considered for his admission to Post Graduate Medical Course by treating him as in service candidate, provided he fulfills the other eligibility criteria and accordingly we direct the respondent no. 2 to allow the petitioner to take part in the stray vacancy round by considering him as in service candidate, giving him benefit of three years medical service.

9. Rule is made absolute in the above terms.

10. Writ Petition is disposed of.

(FIRDOSH P. POONIWALLA, J)

(SUNIL B. SHUKRE, J)