

(2014) 08 P&H CK 0316

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 12134 of 2014 (O and M)

Amandeep Singh Kalra

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 13-08-2014

Acts Referred:

Citation : (2014) 4 SCT 509

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : B.D. Sharma, Advocate for the Appellant; A.P.S. Mann, Additional Advocate General and Gautam Pathania, Advocate for the Respondent

Judgement

K. Kannan, J.—The petitioners, who are Rural Medical Officers, have a grievance to urge that in the manner of admission to Postgraduate Medical Course, they should be treated at par with PCMS candidates who qualify as "in-service candidates". In the matter of admissions, it is the conceded case that 50% is for All India quota and only the remaining 50% is available for Punjab quota. Out of this 50%, 60% is for in-service candidates and 40% is for open general category. Out of this 60% for in-service candidates, the petitioners would claim for two privileges: (i) they do the same work as PCMS candidates and, therefore, their exclusion is not justified; (ii) they have worked in rural areas and weightage, which is directed to be given by the MCI Regulations, should be applied to them. As regards the first contention raised that they shall be treated at par with PCMS candidates, the matter is no longer res integra. The issue has been considered by the Division Bench of this court in LPA 1043 of 2013, where they have allowed the categorization of PCMS candidates as the only persons who would qualify for in-service candidates. After the judgment was delivered on 25.07.2013, it appears that there was a claim for reviewing the judgment to seek for consideration of 40% quota and given to them the benefit of weightage which the MCI Regulations allow. The Division Bench allowed the review application and granted them the benefit of weightage. This judgment modifying the earlier order

passed on 29.07.2013 was itself a subject of challenge taken at the instance of some of the doctors affected by it in Civil Appeal No. 7940 of 2013 before the Supreme Court. The Supreme Court observed, even while making no intervention to the ultimate result, that the High Court was not justified in entertaining the review application in the manner it did and specifically held, "we, however, do not propose to give our stamp of approval to the clarification issued by the High Court in the review application, which we order, would be restricted to the facts of the case." This observation of the Supreme Court is significant, for, there has been already a decision of the Supreme Court on this issue in *Satyabrata Sahoo and Others Vs. State of Orissa and Others*, which was adverted to by the Supreme Court while disposing of Civil Appeal referred to above. The Supreme Court in *Satyabrata Sahoo (supra)* was considering the plea for weightage to be given for rural service in the open general category. The reliance to the MCI Regulations had also been made by the party in the said case. Rejecting the argument that any weightage could be given, the Supreme Court held after referring to several decisions as follows:-

"24.....this Court in various judgments has acknowledged the fact that weightage could be given for doctors who have rendered service in rural/tribal areas but that weightage is available only in in-service category, to which 50% seats for PG admission have already been earmarked. The question is whether, on the strength of that weightage, can they encroach upon the open category i.e. direct admission category. We are of the view that such encroachment or inroad or appropriation of seats earmarked for open category candidates (direct admission category) would definitely affect the candidates who compete strictly on the basis of the merit."

If the petitioners cannot compete on their own merit in 40% open general category, the question of applying for weightage of rural service does not arise. Indeed, it must be noticed that the reservation is invariably talked in the context of how there is a dent to merit. It is just as well likely as a person who is taken on Board comes even by writing the same examination as a person who had not availed of such reservation. But if the entry is slanted in favour of excessive reservation and for new categories, except as a measure of social justice, there is always a heart burn. As the voices for higher percentages of reservation grow shrill, there is at least an attempt to restrict it in postgraduate levels; justifiably so. The principle of reservation itself is only to make available a level playing field at initial entry levels of the professional and other degree courses and at postgraduate levels, the same yardstick could never be applied. The petitioners' grievance cannot, therefore, be favourably considered. The writ petition would require to be dismissed and accordingly, dismissed.