
(1985) 11 SHI CK 0003

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 819 of 1985

Anoop Chand

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 25-11-1985

Acts Referred:

Citation : (1985) 14 ILR HP 881

Hon'ble Judges : R.S. Thakur, J;H.S. Thakur, J

Bench : Division Bench

Advocate : Chhabil Dass and Kamlesh Sharma, for the Appellant; M.R. Chaudhary, Assistant A.G., for respondents No. 1 and 2 and Bhawani Singh, for the Respondent

Final Decision : Dismissed

Judgement

H.S. Thakur, J.—The Petitioner has filed this writ petition praying that the Respondents 1 and 2 be directed to forward and recommend his application to Respondent No. 3 and that Respondent No. 3 be directed to allow him to sit in the test/examination and to admit him to M. S. Orthopaedics degree course in the Session 1985-86 in case he qualifies in the test/examination. The Petitioner has also prayed that Para 3.7 of the Prospectus for Post Graduate Degree and Diploma Courses 1985-86 be struck down.

2. The relevant facts may briefly be stated. The Petitioner is G.D.O-II in the Department of Health and Family Welfare of the State of Himachal Pradesh. He passed his M.B.B.S. in the year 1976 followed by one year internship in the year 1977 from Indira Gandhi Medical College, Shimla. He was appointed G.D.O-II on 12-5-1977. According to him, he has put in more than 8 years" of service out of which four years 11 months service is stated to be in the rural area. He has contended that he intends to become a teacher in the Indira Gandhi Medical College, Shimla, or in any other Medical College and for this purpose he has been inspiring (sic) to acquire a Post Graduate qualification. It is stated that he appeared in the competitive examination held in September/October, 1983 for

Post Graduate Diploma as well as Degree Course in the speciality of Orthopaedics. He could not get admission to the Post Graduate Degree Course but was admitted to Post Graduate Diploma Course in Orthopaedics. For joining the Diploma Course in Orthopaedics as a in-service doctor, the Petitioner executed a bond that after the completion of Diploma Course, he would serve the State Government for five years and in the event of violation of the conditions/obligations of the bond, he would pay a sum of Rs. 25,000/- to the Government. It is pointed out by the Petitioner that he was granted one year's study leave and was paid his salary during the course period. According to him, he has completed his Diploma Course on 30-4-1985. The Petitioner applied for appearing in the competitive examination for admission to Degree Course in Orthopaedics, on the basis of the Prospectus for Post Graduate Degree and Diploma Courses, 1985-86 (hereinafter to be referred to as the Prospectus for 1985-86). It is pointed out by the Petitioner that although he is eligible for admission to the aforesaid Degree Course but he is not likely to be allowed to sit in the test/examination and also not to be given admission to the said Degree Course on the ground that he was already admitted to Diploma Course in Orthopaedics and had not completed a period of five years service after qualifying the same. He has alleged that the condition as incorporated in Para 3.7 of the Prospectus for 1985-86, was not there when he was admitted to one year's Diploma Course in Orthopaedics.

3. The main question that falls for determination in this case is whether the Petitioner can be given admission to the Post Graduate Degree in Orthopaedics before he has rendered five years' service, after completing his Post Graduate Diploma Course or not. The relevant provision that has to be considered to determine this question is contained in Para 3.7 of the Prospectus for 1985-86. It is convenient to extract the same for a ready reference:

3.7 Once a candidate has been admitted in a particular course he/she will not be allowed to change the course until completion. The candidate(s) who have already qualified in any of the degree/diploma courses shall not be allowed to compete in the test, until and unless he/she has rendered a minimum period of five years service to the State Government.

4. It is not disputed that the Petitioner has not rendered a minimum period of five years service to the State Government after qualifying his Post Graduate Diploma Course, in Orthopaedics. It may be noticed that in terms of Para 3.10 of the Prospectus for 1985-86, every selected candidate for undergoing Post Graduate Degree/Diploma Courses in the college under direct category of seats is to be paid a monthly stipend of Rs. 1200/- per month or as sanctioned by the Himachal Pradesh Government from time to time. Under para 3.1, 66% seats are reserved for in-service regularly appointed GDO-I and G.D.O.-II in Himachal Pradesh Health Services Cadre and 33.3% seats are available from open competition from amongst the graduates of Indira Gandhi Medical College. It is not disputed by the Petitioner that he is a regularly appointed GDO and 66%

seats are reserved for the Post Graduate Degree and Diploma Courses for in-service, regularly appointed G.D.Os.

5. Almost 90% people of Himachal Pradesh are agriculturists and generally live in rural areas. The State Government appears to be keen to have sufficient number of Medical Doctors so that the people of Himachal Pradesh may have medical facilities. In order to get the services of specialised doctors, certain conditions have been imposed to give admission to in-service G.D.Os. In terms of Para 3.9 of the Prospectus for 1985-86, every candidate(s) who is admitted in any course shall have to execute a bond to the extent of Rs. 25,000/- to serve the State Government for a period of about five years in the rural area after qualifying the course, failing which he/she will have to deposit the cost of bond money with 6 1/4% interest accrued up-to-date. As such, in order to get admission to the Post Graduate Degree and Diploma Courses, certain conditions have been incorporated in the prospectus. Such conditions are in the larger interest of the people of the State. The competent authority has even powers to amend the Prospectus. Shri Bhawani Singh, learned Counsel for Respondent No. 3 (The H. P. University), has asserted that Para 3.7 has been incorporated in the larger interest of the people. In order to substantiate his plea, he has referred to the decision in Punjab University Vs. Subash Chander and Another, In this judgment, the question was whether regulations of the University could be amended or not. Their Lordships of the Supreme Court after considering the facts of the case, came to the conclusion that the student who was adversely affected by the amendment in the regulation was not entitled to the benefit under the old regulation but was governed by the amended regulation. At the same time, the Court has to construe the provisions of a statute in their context and with due regard to the objects to be achieved and the mischief to be prevented. As pointed out earlier above, Para 3.7 in 1985-86 Prospectus, appears to have been incorporated in the larger interest of the people.

6. In view of the above discussion and observations, we are satisfied that the Petitioner is not eligible to be admitted to the Post Graduate Degree Course in Orthopaedics at this stage, as he has not rendered a minimum period of five years service to the State Government after he qualified the Orthopaedics Diploma Course.

7. The result of the above discussion is that there is no merit in this writ petition and the same is dismissed in limine.