

(1997) 07 SHI CK 0016

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 251 of 1997

Anuradha Attree

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 22-07-1997

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (1998) 1 ShimLC 207

Hon'ble Judges : M. Srinivasan, C.J.;A.L. Vaidya, J

Bench : Division Bench

Advocate : Bhupinder Gupta, for the Appellant; Inder Singh, General for the Respondent No. 1 and Abhilasha Kumari, for the Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

M. Srinivasan, C.J.—There is no merit in this writ petition. The Petitioner applied for admission to M.B.B.S./B.D.S./B.A.M.S. Course. Her application was rejected on the ground that she had not passed two out of three classes from the school located in Himachal Pradesh State. She wrote a letter to the Assistant Registrar (Entrance test) just before the examination stating that her father was employed in the High Court of Delhi and that he was a bona fide Himachali having a permanent home in Himachal Pradesh, it was stated by her that on account of her father's occupation, they had to live outside the State of Himachal Pradesh. She prayed for permission to write the examination to be held on 29-6-1997. She was permitted to appear in the examination on the basis of an undertaking given by her on the date of the examination, which reads as follows:

I may be allowed purely provisionally. If I am not considered to be ward of Central Government employee, I will have no claims of so were rewarding admission through CPMT by H.P. University.

2. Having thus been allowed to write the examination, the Petitioner was

expecting the result, but a communication was sent to the Petitioner by the Assistant Registrar on 30-6-1997 pointing out that she not being a ward of a Central Government employee was not eligible according to the Rules for admission.

3. The Petitioner has filed the present writ petition for quashing the two letters referred to above rejecting her eligibility for admission and also for striking down the eligibility criteria contained in the prospectus issued by the Respondents.

4. The relevant Clause, which is attacked by the Petitioner reads as follows:

The wards of Defence personnels/serving Central Government employees who are bona fide Himachalis are also exempted from the condition of passing two classes from the State of Himachal Pradesh.

5. The contention of the Petitioner is that there is a hostile discrimination between the Central Government employees and the other employees, who are bound to stay outside the State of Himachal Pradesh on account of their occupation in this Clause and, therefore, the Clause is violative of the provisions of Article 14 of the Constitution of India.

6. There is no merit in this contention. The Central Government employees are liable to be transferred on account of their service conditions even against their will. They cannot be equated with the persons who employment outside the State of Himachal Pradesh on their own accord in particular Institution. The Petitioner's father is an employee of the High Court of Delhi. He got employment there and it is not a transferable service. it is an employment in a particular Institution voluntarily chosen by the Petitioner's father himself. In such circumstances, there is no question of any discrimination as against the employees, who are serving outside the State of Himachal Pradesh voluntarily in particular Institutions.

7. There is a reasonable classification by classifying Central Government employees and bracketing them with the defence personnel for the purpose of granting exemption to their wards from the condition of passing two classes from the State of Himachal Pradesh. The classes of persons, which are mentioned in the Rule are the persons, who are serving the Central Govt. and have to remain posted outside the State of Himachal Pradesh against their will as they may be transferred against their will. In such circumstances, the Clause is not violative of the provisions of Article 14 of the Constitution of India.

8. On the facts of this case, it is not and written the examination pursuant to that undertaking to challenge the validity of the Rule itself. The Petitioner has clearly stated in the undertaking that if she is not considered to be the ward of Central Government employee, she would not claim the benefit of exemption. In such circumstances, the writ petition is not maintainable.

9. In the result, the writ petition is dismissed. There will be no order as to costs.

CMP No. 610/97:

Allowed.

CMP No. 609/97:

In view of the dismissal of the writ petition, this application is also dismissed.