
(2015) 04 RAJ CK 0024
In the Rajasthan High Court
Case No : Civil Writ Petition No. 3780/2015

Dinesh Kumar Nagar

APPELLANT

Vs

State of Rajasthan and Others

RESPONDENT

Date of Decision : 01-04-2015

Acts Referred:

Citation : (2015) 04 RAJ CK 0024

Hon'ble Judges : M.N. Bhandari, J.

Bench : Single Bench

Advocate : P.P. Singh, for the Appellant; S.K. Gupta, Additional Advocate General and Rahul Sharma, Advocates for the Respondent

Judgement

M.N. Bhandari, J.—This writ petition pertains to admission in PG Medical course. The petitioner applied for admission in the aforesaid course, however, list of eligible/not eligible candidates for PG 2015 Medical Course at annexure-11 shows petitioner to be ineligible. The aforesaid list is not giving any reason for ineligibility of the petitioner. This is more so when petitioner is eligible in all respect. He possesses all the qualifications required for PG medical course, thus while declaring petitioner to be eligible, his name may be included in the list for counselling of in-service candidates. The petitioner is eligible for in-service category. It is as per letter dated 14.10.214 at annexure-6 but the aforesaid has been ignored by the Chairman, Pre-PG Medical/Dental Admission Board 2015.

2. The petitioner entered into government services on 13.5.2011. He was, however, suspended on 15.2.2013 but then suspension does not affect his status and is clarified in the letter dated 14.10.2014. In view of above, appropriate direction for inclusion of name of the petitioner may be issued.

3. Per contra, learned Additional Advocate General appearing for the respondents submits that the petitioner is not eligible for admission in PG medical course as he is not in possession of required length of service in rural area, as provided under the Rajasthan University of Health Sciences Ordinance. As per Ordinance

278-E(iv), one should complete at least 3 years of service in rural area of the State of Rajasthan or 2 years continuous rural service in desert/hilly/tribal area of the State. It should be with receipt of rural allowance, as admissible and actual service in rural area. The petitioner had joined the services and posted in rural area at the initial stage, but, after lapse of one and half years only, he was placed under suspension. His Head-quarters was kept at Bundi followed by Jaipur. He was not paid rural allowance during the period of suspension and had not actually worked there. Looking to the facts aforesaid, petitioner himself made a request to treat him to be a non-service candidate vide the letter dated 20.8.2014 at annexure-5. This petition has now been filed contrary to his own request, thus it deserves to be dismissed.

4. I have given my thoughtful consideration to rival submissions of the parties and perused the record.

5. The challenge is made to the list of eligible/non eligible candidates in PG-2015 Medical Course. The list aforesaid includes name of all eligible and ineligible candidates. Against the name of the petitioner, he has been shown to be ineligible as per criteria. The list does not give reasons for it, thus notices were issued to the respondents. The respondents have given reply showing the reason of ineligibility of the petitioner. To find out whether petitioner is eligible or not, reference of Ordinance 278-E(iv) would be relevant and is quoted thus--

"278-E-IV - ELIGIBILITY FOR ADMISSION

All candidates seeking admission to MD/MS Courses must have completed satisfactorily one year's compulsory rotating internship after passing the final MBBS Examination latest by 30th April of the year of selection and must have registration with Rajasthan Medical Council.

(i) For seats referred at sub-clause (a) of Clause-II the Eligibility shall be laid down by the Govt. of India from time to time.

(ii) For seats reserved for in-service candidates as referred at clause (II-b) the candidates should be duly selected by the R.P.S.C. under Rajasthan Medical and Health Services Rules, 1963 or should be working as Medical Officer in Rajasthan Medical and Health Services on adhoc/temporary/contractual basis and should be below the age of 45 years and should have completed at least three years of service in the rural areas of the State of Rajasthan or two years of continuous service of Rural Areas of desert/Hilly/Tribal parts of the State. Rural area is defined as a Rural area where rural allowance is admissible to the doctors and should have actually served in the rural area. In service candidate who have served for at least three years in rural areas of the State of Rajasthan or at least two years in rural areas of desert/hilly/tribal parts of the State of Rajasthan shall be considered for admission to Degree (MD/MS) courses.

(iii) For seats not reserved in sub-clauses (a) and (c) of Clause- II, candidates must have passed Final M.B.B.S. examination from the University of Rajasthan or

the candidates should have been nominee of the Rajasthan Government and was admitted to the M.B.B.S. course as State nominee in a Medical College outside the state of Rajasthan and has obtained the M.B.B.S. Degree from a Medical College from outside the State of Rajasthan, where they secured admission on All India Competitive basis. Besides, those Lady doctors/spouse who are not born in Rajasthan but because of their marriage they have become bona-fide residents of Rajasthan shall also be eligible, subject of the condition that they have passed their M.B. B.S. examination from a Medical College, recognised by Medical Council of India.

(iv) In case the candidate requires eligibility after passing Pre-P.G. examination in the subsequent year for admission in other specialist he/she will have to produce (i) Cancellation of Registration from the University of Rajasthan (ii) Certificate of acceptance of his/her resignation from the head of Institution, with the application of choice of subject and place before admission."

6. As per the Ordinance referred to above, one should be in possession of qualification as given therein apart from 3 years rural service or two years of continuous service of rural area in desert/hilly/tribal. It should be with receipt of rural allowance apart from actual working in rural areas.

7. The rural service has been defined under the Ordinance. If the total tenure of service of the petitioner is considered, he was initially posted in rural area but was suspended on 15.2.2013. It was after one and half years of service. His Headquarter remained at Bundi and thereafter at Jaipur. He did not receive rural allowance, as admitted by learned counsel for the petitioner. In absence of payment of rural allowance and posting in the rural area for three years or two years in rural area of desert/hilly/tribal, as the case may be, petitioner was rightly rendered to be ineligible.

8. It is true that Headquarter during the period of suspension is fixed by the government and it does not remain in the domain of a candidate but merely for that reason, Ordinance and the rule cannot be ignored. It is more so when no exception exist to deviate from mandate of the rules.

9. In view of the discussion made above, I do not find any error or illegality in the action of the respondents to declare the petitioner to be ineligible. The petitioner himself requested for consideration of his candidature in non-service quota vide Annexure-5. Now, he cannot change his stand to claim benefit of in-service category quota. The petitioner having appeared in the entrance test would however be entitled to be considered as non-service candidate and, if he comes in the merit, would be entitled for appearance in the counselling. With the aforesaid observations, this petition is disposed of without causing interference in the list of eligible/non eligible candidates for PG 2015 - Medical Course on the grounds raised in this petition.