

(1998) 04 MAD CK 0146

In the Madras High Court

Case No : Writ Petition No. 3421 of 1998 and W.M.P. No's. 5106 to 5108 of 1998

Dr. M. Lakshmi

APPELLANT

Vs

State of Tamil Nadu and Others

RESPONDENT

Date of Decision : 24-04-1998

Acts Referred:

Citation : (1998) 04 MAD CK 0146

Hon'ble Judges : S.S. Subramani, J

Bench : Single Bench

Advocate : N.P.K. Menon, for the Appellant; D. Murugesan, for the Respondent

Final Decision : Allowed

Judgement

S.S. Subramani, J.—Petitioner seeks issuance of writ of mandamus or any other appropriate writ, order or direction directing the Respondents to admit the Petitioner in Post Graduate degree course of M.D. during the year 1998-99 and pass such other orders.

2. In the affidavit filed in support of the writ petition it is stated that the Petitioner passed in the year 1993 and she was registered as a medical practitioner. After completion of Rotary Resident Internship, she was also given a certificate and thereafter she joined the Post-graduate degree in M.D. for the year 1994-95 on 29.7.1994. Within a month or two, on her joining, due to family problems she could not attend the classes and she was absent continuously. Therefore, she wrote to the fifth Respondent between October to December, 1994 to relieve her due to her family problems. No order was passed for a considerably long period and the order relieving her was passed only on 13.2.1995. The relieving order became effective from 14.2.1995.

3. The Petitioner again wanted to join the Post-graduate Medical course for the year 1996-97. The Selection Committee directed her to produce the discontinuation certificate giving the date of joining and the date of relief from the Post-graduate degree course. She represented before him that there was

considerable delay in relieving her, even though she did not attend the classes continuously. It was pointed out to the Additional Director of Medical Education that she discontinued her studies within a period of six months from the date of joining and there is no bar in getting her admitted for the Post-graduate course for the subsequent year.

4. Thereafter, the Petitioner requested the fifth Respondent to provide a copy of the representation on the basis of which the relieving order was issued on 13.2.1995. But, the copy of the representation was not issued to her. A lawyer's notice was sent by registered post wherein it was informed that she has discontinued her course within a period of six months from the date of joining. The Petitioner again applied for the year 1997-98 and she also wrote her entrance examination on 23.3.1997. She was also granted a hall ticket and was asked to appear for counselling for the provisional selection by the Secretary of Selection Committee. She attended the Counselling Session. At that time, she represented that she had discontinued her studies within a period of six months from the date of joining and for that period she did not receive any stipend. On this information, the authorities did not select her on the ground that under Rule 7 of the prospectus, she has become ineligible to be admitted in the post-graduate course during the subsequent year.

5. It is under these circumstances, the Petitioner has come to this Court that the denial of admission is unjust and Rule 7 has no application so far as her case is concerned. It is her case that she discontinued her studies within a period of six months from the date of joining. Therefore, there is no bar under Rule 7. The non-admission is illegal and one without jurisdiction.

6. In the counter affidavit, it is stated that the denial of admission to the Petitioner is proper. The Petitioner joined the post-graduate course on 29.7.1994 and was relieved in the afternoon of 14.2.1995, i.e., after the expiry of six months. So, as per Clause 7 of the prospectus, she is ineligible for admission for the subsequent year.

7. It is stated that the Government is spending approximately Rs. 5.00 lakh on each student for post-graduate course. Further the Government is paying Rs. 1.00 lakh to Medical Council of India for each seat to get permission. Therefore, a seat was granted to the Petitioner. Thereafter, she, by discontinuing the studies, wasted the amount. She has also prevented another eligible candidate from being admitted. It is under these circumstances, Rule 7 is interpreted and therefore, it is justified.

8. I heard the learned Counsel on both sides in detail.

9. At the time of argument, it was submitted that the Petitioner applied for discontinuance on 19.1.1995, i.e., within a period of six months from the date of joining the Course, i.e., from 29.7.1994. "Discontinuance" means a voluntary act and abandonment and it means that the person discontinuing has given up and has put a stop. It is a voluntary act. It implies an intention to abandon a course.

10. In this case, the Petitioner expressed her intention to discontinue when she applied on 19.1.1995 for the same. It is her further case that even before the said period she was absenting herself and finally put an end to, with an intention to put a stop for her studies. Though the same was accepted belatedly on 14.2.1995 by the Respondent, that cannot itself mean that she was relieved or she discontinued on 14.2.1995. Discontinuation, being a voluntary act, does not need the acceptance and even if acceptance is required, the Respondent cannot say that the discontinuance is from a future date. Therefore, discontinuance is effected from 19.1.1995 when the Petitioner wrote to the Respondent-5 of the intention to put a stop to her studies at that time.

11. If this interpretation is accepted, the "discontinuance" as contemplated in Rule 7 of the prospectus, I do not think that the action of the Respondents in denying the admission to the Petitioner was proper. In this connection, it is better to extract Rule 7 of the prospectus thus:

Candidate who has undergone a Post-graduate Degree in any one discipline either clinical or non-clinical and discontinued the course on his/her own or any other grounds after six months is ineligible to apply for any Post-graduate Diploma/Degree during 1997-98.

12. Learned Counsel for the Respondents brought to my notice, my order in Geetha v. State of Tamil Nadu and Ors. in W.P. No. 3812 of 1997 dated 08-08-1997. This decision has got no relevance to the case on hand. In that case, the discontinuance was after a period of six months and therefore, I held that under concerned Rule of the Prospectus, the Petitioner was not entitled to be admitted. But, in this case, the facts are different. Therefore, I do not see any reason to follow my earlier decision.

13. Consequently, I hold that the denial of admission to the Petitioner is not justified and the Petitioner is entitled to be selected. I direct the Respondents to reconsider the entire matter and pass orders on admission of the Petitioner for the post-graduate medical course for the year 1997-98.

14. In the result, the Writ Petition is allowed. No costs. Consequently, the connected W.M.Ps. are closed.