
(2010) 01 AHC CK 0281
In the Allahabad High Court
Case No : C.M.W.P. No. 52004 of 2007

Dr. Major Bipul Kumar

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 07-01-2010

Acts Referred:

Citation : (2010) 4 AWC 3479 : (2010) 125 FLR 55

Hon'ble Judges : Satya Poot Mehrotra, J;Kashi Nath Pandey, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

Satya Poot Mehrotra and Kashi Nath Pandey, JJ.—The petitioner was appointed as Medical Officer, Short Service Commission in the Indian Army on 29.4.1987, and he was discharged from the Indian Army on 1.6.1992 from the post of Major. Thus, the petitioner was in military service from 29.4.1987 to 1.6.1992. The petitioner applied for the post of Medical Officer advertised by the U. P. Public Service Commission for which selection was held by the U. P. Public Service Commission in the year 1992-1993. The petitioner had applied against the vacancies reserved for ex-servicemen of Indian Army. The petitioner was appointed by the Appointment Letter dated 30.4.1994.

2. The present writ petition has been filed by the petitioner, inter alia, praying for directing the respondents to determine/fix the seniority of the petitioner in Medical Officer Cadre of Medical Health Department of State of Uttar Pradesh providing the benefit of his working as Medical Officer in Short Service Commission, and provide all consequential benefits thereon, and further, for directing the respondents to fix the salary of the petitioner providing the benefit of working of the petitioner as Short Service Commission, and pay entire arrears of salary.

3. It appears that on 25.10.2007 time was granted to the learned standing counsel for filing counter-affidavit. However, no counter-affidavit was filed on

behalf of the respondents.

4. Again, by the order dated 3.9.2008, time was granted for filing counter-affidavit on behalf of the respondents as a last chance. However, no counter-affidavit has so far been filed on behalf of the respondents.

5. We have heard Sri H. N. Singh, learned Counsel for the petitioner and Sri Pankaj Saxena, learned standing counsel appearing for the respondents.

6. Keeping in view the order which is proposed to be passed by us in the present case, we are of the opinion that no further opportunity is required to be given to the respondents for filing counter- affidavit.

7. Having regard to the facts and circumstances of the case and having considered the submissions made by the learned Counsel for the parties, and keeping in view the nature of controversy involved in the present case, we are of the opinion that the interest of justice would be sub served in case the writ petition is disposed of permitting the petitioner to file a comprehensive representation before the respondent No. 2. and directing the respondent No. 2 to decide the same within a specified period.

8. In view of the above, the writ petition is disposed of with the following directions:

(1) The petitioner will submit a fresh comprehensive representation before the respondent No. 2 alongwith a certified copy of this order within four weeks from today.

(2) On receipt of such representation, the respondent No. 2 will proceed to decide the same in accordance with law by passing a speaking order, expeditiously, preferably within a period of two months of the receipt of such representation.

9. It is made clear that this Court has not adjudicated the claim of the petitioner on merit.