

(1982) 12 KAR CK 0006
In the Karnataka High Court
Case No : WP 4879/82

Dr. Radhakrishnan, A.N.

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 13-12-1982

Acts Referred:

Constitution of India, 1950 — Article 14

Karnataka Dental College (Selection for Post Graduate Course) Rules, 1981 — Rule 2(3)

Citation : (1983) 2 KarLJ 199

Hon'ble Judges : M. P. Chandrakantaraj Urs, J

Judgement

1. In this petition, the petitioner Dr. A.N. Radhakrishnan has prayed for a writ of Certiorari, quashing the selection of respondents 3 and 4 and their consequent admission to Bangalore Dental College for Post Graduate Course Seats.

2. Sri S.L. Simha, learned counsel appearing for the 3rd respondent has raised a preliminary objection in regard to the locus standi of the petitioner to challenge the selection of the 3rd respondent. That is the petitioner being a person not eligible to apply for the seats for which the two respondents have been selected, cannot claim to have been discriminated against the said respondents. He has drawn my attention to sub-rule (3) of R. 2 of the Karnataka Dental College (Selection for Post Graduate Courses) Rules, 1981 (hereinafter referred to as the ("Rules")) which reads as follows:

"A candidate who is already holding a Post Graduate degree in a particular speciality in Dentistry shall not be eligible to apply. A candidate who is holding a P.G. Diploma in a particular speciality shall be eligible to apply for P.G. Degree course only in the same speciality and not in any other".

3. A plain reading of the Rule so-called definitely is indicative that possession of a post graduate degree in any one of the specialities in dentistry would be a disqualification for applying for that course again, while the post graduate Diploma holders are inhibited a little less in as much as they can only seek for a

seat in the same speciality in which they are holding diploma, in the degree course.

4. It appears, on the date the petitioner applied for a seat for the academic year 1981-82, he had taken the post graduate degree examination in Oral Medicine but his results had not been announced. The position continued to be the same even on the date he was interviewed. But however, on 5-1-1982 results were announced and he had passed in the examination held for Oral Medicine in Post Graduate Degree course in the Bangalore Medical College. That fact is not disputed except, the learned counsel for the petitioner wanted to take into account the date on which the petitioner made the application and not the date his application was rejected. He has also urged that sub rule (3) of R. 2 of the Rules should be regarded as unreasonable because, it comes in the way of petitioner's promotion in terms of the amended Recruitment Rules, i.e., Karnataka Medical Department Services (Recruitment) (Amendment) Rules, 1979. In that Rule as amended, a provision is made by which the post of Surgeon is to be filled up by promotion from the cadre of Asst. Dental Surgeons and preference is given to the post graduate degree holders in 5 specialities named in a particular order and the last speciality mentioned is Oral Medicine. In other words, the impact of the Recruitment Rules is that degree in Oral Surgery is preferred for a candidate to get eligibility to become Dental Surgeon and Oral Medicine will then take its turn in the absence of other candidates of other specialities.

5. Undoubtedly the Recruitment Rules are made under the proviso to Art. 309 of the Constitution and have statutory force and petitioner admittedly being a Government servant, is governed by it. But his right to be considered for promotion has not arisen yet. When that arises and on account of his having a post graduate degree in Oral Medicine if he is not promoted and some body junior to him gets the preference, he shall acquire the cause of action to challenge that in terms of Art. 16 and this Court will examine that aspect. But while considering the executive rules made under Art. 162 for merely selecting the students by the Government, it cannot be said that restriction imposed prohibiting the post graduate degree holder in any speciality of Dentistry again to apply for another speciality is unreasonable. Having regard to the pressure in this State which has very few Dental Colleges offering courses in various specialities, the petitioner having already secured one post graduate degree in Oral Medicine should be content with that. This Court, having regard to the position already explained regarding the pressure on the Dental College seats for post graduate Course, should take a very pragmatic view that the restriction is reasonable and it is not violative of Art. 14 or 16 and the restriction cannot be said to be arbitrary. No one has a fundamental right to acquire a string of Post Graduate degrees at the expense of the tax payers, and at the cost of other eligible candidates who also seek such a degree.

6. Therefore, the preliminary objection raised by the counsel for 3rd respondent

must be upheld and this petition is dismissed on account of that without examining the other contentions raised.