
(2011) 12 SHI CK 0025
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 9271 of 2011-H

Dr. Ruchit Punn

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 08-12-2011

Acts Referred:

Citation : (2011) 12 SHI CK 0025

Hon'ble Judges : Rajiv Sharma, J;Kurian Joseph, J

Bench : Division Bench

Judgement

Justice Rajiv Sharma, J.—Respondent-State issued an advertisement dated 17.11.2010, whereby applications were invited for filling up 101 posts of Ayurvedic Medical Officers on contract basis. 40 posts were meant for general category, 10 posts were meant for SC category and 9 posts were meant for OBC category. Remaining 42 posts were reserved for various other categories, as per the details given in the advertisement. Petitioners sat in the screening test and they were called for interview in the month of July, 2011. Respondent No.3 has issued merit list vide Annexure P-2. Respondent No.3 has made recommendations for appointment to the posts of Ayurvedic Medical Officers vide Annexure P-3. Petitioners belong to Scheduled Caste category. Their names are at Sr. Nos. 11 and 12 in their category.

2. It is evident from the recommendations made that two candidates belonging to scheduled caste category at Sr. Nos. 36 and 39 have been shown in general category but correspondingly two posts have not been filled up from the scheduled caste category as per the merit list.

3. Mr. M.L. Sharma has vehemently argued that once the candidate belonging to scheduled caste category finds place in the common merit list on account of his own merit, he has to be treated as a general category candidate and the number of posts reserved for the said category have to be filled up after excluding the candidates selected on account of their own merit. In other words, his submission is that the candidates at Sr. Nos. 36 and 39, namely, Dr. Sanjeev

Kumar Dhiman and Dr. Poonam Jambala are to be treated as general category candidates.

4. It is no more res integra that in case of vertical reservation, reserved candidates may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own merit, their number will not be counted against the quota. (see: R.K. Sabharwal and others Vs. State of Punjab and others,

5. Their Lordships of the Hon"ble Supreme Court in Rajesh Kumar Daria Vs. Rajasthan Public Service Commission and Others, have held that if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under Open Competition category, though their Lordships have put a rider that this principle applies to vertical (social) reservations and not to horizontal (special) reservations.

6. Respondent No.3 has filed a reply and in view of the settled law discussed hereinabove, has undertaken to revise the result by excluding the names of respondents No.4 to 8 from the list of selected candidates.

7. Accordingly, the writ petition is disposed of with a direction to responder No. 3 to revise the result and to make recommendations, within a period of four weeks from today. The pending application(s), if any, also stands disposed of.