

(2018) 09 RAJ CK 0119
In the Rajasthan High Court
Case No : Civil Writs No. 13295 of 2017

Dr. Samay Singh Meena @APPELLANT@Hash State of Rajasthan & Ors

Date of Decision : 12-09-2018

Acts Referred:

Citation : (2018) 09 RAJ CK 0119

Hon'ble Judges : Inderjeet Singh, J

Bench : Single Bench

Advocate : H.V. Nandwana, Sanjeev Singhal

Final Decision : Disposed Off

Judgement

Counsel for the petitioner submits that issue involved in this writ petition is squarely covered the judgment passed by the Coordinate Bench of this

court in the matter of Dr. Nidhi Sharma Vs. State (Medical Education Dept.) Ors. (S.B. Civil Writ Petition No.11108/2017) decided on 10.01.2018

where in it has been held as under:-

â??Both the writ applications, project substantially identical questions of facts and law for determination, and therefore, have been taken up for

adjudication together by this common order with the consent of the learned counsel for the parties.

Indisputably, petitioners were allowed to undertake and complete the Post-Graduation course and were accorded study leave with effect from 4th/5th

July, 2014 to 3rd July, 2017. The petitioners have completed their Post Graduation Course.

Learned counsel for the parties are not in dispute on the preposition that identical controversy was raised, considered and adjudicated upon by a

Coordinate Bench of this Court in the case of Chandar Prakash Gunawat (Dr.) vs. State of Raj. & Ors.: 2014 2 RLW(Raj.) 1730. Further, the opinion

of the learned Single Judge was confirmed by the Division Bench declining a batch of intra-court appeals including one instituted by the

Staterespondents in the case of Dr. Chandar Prakash Gunawat & Anr.: DBSAW No. 736/2014, holding thus:

“The salient facts, which are relevant for the present purpose and taken note of from the records, are that the respondents were undergoing their

PG course and at the relevant point of time, the post of Ayurved Chikitsak came to be advertised by the RPSC and after undergoing the process of

selection each of them, on being found suitable as per their order of merit, were offered appointment by the State Govt. but they were unable to join as

they were undergoing their Post Graduation at the relevant point of time. As such, a request was made that after reporting on duty, they may be

permitted to undergo their PG course and whatever the condition which the Government may consider appropriate & in the fitness of things may be

imposed but at least they may be permitted to undergo PG studies.

It appears that the Id. Single Judge granted interim protection to each of the respondents and they have completed their full course of three years

duration in the month of May, 2014 other than one Mr. Chandra Prakash Gunawat DB Special Appeal (Writ) No.736/2014 have crossed the barrier of

six months in seeking extension of time, the Govt. has not considered it appropriate to grant relief and when the matter was considered by the Id.

Single Judge of this Court, the Scheme of the Rules was also examined and the Id. Single Judge has also taken note of the earlier precedence which

has been referred to in detail at page 6 of the impugned judgment and arrived to a conclusion that the candidates may be permitted to report on duty

immediately on completion of their course but has to fill the bond to serve the State for the period of five years which would be as per the policy of

the State Government and one is supposed to render service with the Govt.

It is also brought to our notice that while a student is undergoing PG, he gets stipend to the tune of Rs.25,000/- for the first year; Rs.30,000/- for the

second year and Rs.36,000/- for the third year but when he joins service as a Ayurved Chikitsak for which the educational qualification is

undergraduation his salary remains fixed i.e. Rs.16,800/- for the initial period of two years which is almost half of the stipend which the incumbent gets

while he is undergoing PG and even after completion of two years' satisfactory

probation, he is fixed in the pay-scale of 15600-39100 with Grade Pay of Rs.5400/- and those, who are PG, get three advance increments and the total salary which an incumbent gets after completion of probation period satisfactorily of two years as an Ayurved Chikitsak, is approximately Rs.44,000/-. There appears to be an apparent anomaly in the pay structure which is brought to our notice, an incumbent, who while doing PG, gets Rs.36,000/- in the third year but when he joins service as an Ayurved Chikitsak gets fixed salary of Rs.16,800/- for the probation period of two years and, as such, at least for the initial period of two years' probation, his salary becomes half of the stipend which one is getting while undergoing PG. This is the question, which is left open for the State Government to examine and if possible the anomaly may be examined and removed as early as possible.

As regards merits of the matter, we have heard the OIC, appearing in person on behalf of the appellants so also the respondents, appearing in person.

After hearing the parties and going through the order impugned passed by the Id. Single Judge, we do not find any error being committed which may

require interference of this Court in the instant intra-court appeals and we direct the appellant/s to permit such of the respondents, who have

completed their course and reported for duty, to join their duty immediately without any delay.

The intra-court appeals stand disposed of, as indicated above.â??

In view of the above, both the writ applications succeed and are hereby allowed.

The State-respondents would do the needful and allow the petitioners to join the services consequent upon their selection on the post of Senior

Demonstrator. Needful be done within two months from the date a certified copy of this order is presented.

Counsel for the petitioner prayed that the present writ petition may also to dispose of in view of the aforesaid judgment.

Counsel for the respondent has admitted the submission made by the counsel for the petitioner.

In that view of the matter, the present writ petition stands disposed of in view of the judgment passed in the matter of Dr. Nidhi Sharma (supra).

The respondents are directed to do the needful in the matter petitioner also as per the aforesaid judgment.