

(2014) 09 KL CK 0166
In the High Court Of Kerala
Case No : WP(C). No. 1735 of 2012(N)

Harikumar Ganesan Pillai

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 18-09-2014

Acts Referred:

Citation : (2014) 09 KL CK 0166

Hon'ble Judges : A.K. Jayasankaran Nambiar, J

Bench : Single Bench

Advocate : Santhan V. Nair, V. Gopikrishna and V.V. Mithun, Advocate for the Appellant; P. Parameswaran Nair, Advocate for the Respondent

Judgement

A.K. Jayasankaran Nambiar, J.—The petitioner is a doctor who passed the Diplomate of National Board Exam in the discipline of Orthopaedics in June 2010. In connection with a joint convocation that was scheduled on 01.02.2012, a list of gold medalists in various disciplines, inter alia for the June 2010 session, was published by the 2nd respondent. In the said list, the petitioner was shown as entitled to receive the gold medal in the discipline of Orthopaedics. Ext. P3 public notice dated 6th January, 2012 is produced by the petitioner to show that his name was shown as the person entitled to receive the gold medal in the discipline of Orthopaedic Surgery for the June 2010 session. Thereafter, by a separate communication of the same date, the petitioner was informed by the Deputy Director of the 2nd respondent organisation that he was selected for the award of gold medal in the specialty of Orthopaedics for the session June 2010 and he was requested to attend the 17th Convocation of the Board to be held on 1st February, 2012 at New Delhi to receive the gold medal in person. Thereafter, by Ext. P6 communication dated 10.01.2012, the petitioner was informed that he was not selected for the award of the gold medal in the specialty of Orthopaedics for the session 2010. The reason given for the change in stand of the 2nd respondent was that the petitioner had passed the theory examination only in the 4th attempt and the practical examination in the first attempt. This,

according to the 2nd respondent, was not in conformity with the criteria for awarding the gold medal as per the guidelines in force. On receipt of Ext. P6 communication, the petitioner approached this Court challenging the same as well as Ext. P5, which is the revised public notice issued consequent to Ext. P6, and seeking a declaration that the petitioner was entitled for the award of gold medal in the discipline of Orthopaedic Surgery.

2. After the writ petition was admitted, and taking into consideration the fact that the convocation was scheduled on 01.02.2012, this Court by an interim order dated 30.01.2012, directed the 2nd respondent to award the gold medal that had been promised to the petitioner pursuant to Exts. P3 and P4 in the convocation. It was made clear that immediately on receipt of the gold medal the petitioner would return the same to the 2nd respondent and await orders in the writ petition regarding the eligibility of the petitioner to receive the gold medal. The petitioner did not however get the benefit of the interim order referred to above since, by the date of the convocation, the 2nd respondent had approached the Supreme Court through an SLP and obtained an interim order of stay against the operation of the order dated 30.01.2012 of this Court. It is brought to my notice that thereafter the SLP itself was dismissed as infructuous.

3. Although the 2nd respondent had thought it fit to contest the matter before the Supreme Court, no counter affidavit has been filed before this Court in the present writ petition. This is despite repeated directions to the 2nd respondent to file a counter affidavit in the matter. At this stage, other than deprecating the conduct of the 2nd respondent in not responding to the directions of this Court, I do not wish to make any further observations regarding the conduct of the said respondent in the present proceedings.

4. The short issue to be considered in this case is the eligibility of the petitioner for the grant of a gold medal in the discipline of Orthopaedic Surgery. The petitioner had during the pendency of the writ petition preferred an application under the Right to Information Act for obtaining the documents which showed the criteria that was applicable prior to June 2010, for determining the award of gold medal in the final DNB Examination conducted in June 2010. He had also sought for information regarding the exact date on which the criteria for determining the award of gold medal in the final DNB Examination for the 17th convocation was uploaded in the official website. In response to the said request of the petitioner, the 2nd respondent forwarded two documents, which are marked as Annexure-A and Annexure-B to Ext. P9 which is produced by the petitioner along with I.A. No. 1087 of 2014 in the present writ petition. A perusal of the said documents, the veracity of which has not been questioned by the petitioner through any proceedings under the RTI Act, would indicate that as per the guidelines in force, a candidate to be eligible for the award of a gold medal in the convocations of the 2nd respondent had to be fully eligible for the award of the DNB qualification and further, had to have completed the prescribed period of training and passed the theory examination and the practical examination. He

should also have paid the enrollment fee towards the convocation and further, the theory as well as the practical examination of the candidate should have been cleared in the 1st attempt and there could not be any repetition of any kind at the theory and practical examination. In the instant case, it is not in dispute that the petitioner had passed the theory examination only in the 4th attempt. Thus, in accordance with the guidelines that were in force for the determination of merit for the award of gold medal in the convocation of the 2nd respondent, the petitioner did not qualify for the award of the gold medal in the discipline of Orthopaedic Surgery. The mere fact that the petitioner's name was erroneously shown in the list of probable recipients of the gold medal in Ext. P3 cannot advance the case of the petitioner when, admittedly, as per the guidelines in force he has not qualified to receive the gold medal. In this view of the matter, I do not see any valid grounds to interfere with the decision taken by the 2nd respondent in Exts. P5 and P6. The writ petition fails and is accordingly dismissed.