
(2004) 12 JH CK 0023
In the Jharkhand High Court
Case No : Cont. Case (C) No. 910 of 2004

Junior Doctor Association

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 22-12-2004

Acts Referred:

Bihar Reorganisation Act, 2000 — Section 72, 72(2)

Citation : (2005) 1 BLJR 401 : (2005) 1 JCR 290

Hon'ble Judges : S.J. Mukhopadhaya, Acting C.J.; Narendra Nath Tiwari, J

Bench : Division Bench

Advocate : Rajesh Shankar, for the Appellant; A.K. Sinha, A.G. and R.N. Sahay, Sr. SC II, for the Respondent

Judgement

1. When this case was taken up on 20th December, 2004, learned Advocate General, Jharkhand brought certain difficulties in implementing the Court's judgment and order dated 14th May, 2004 passed in WP (C) No. 5334 of 2003, Junior Doctor Association, Ranchi v. State of Jharkhand and others. It was submitted that there was no guide lines/rule framed for appointment on contract basis or by stop gap arrangement. It takes about six months to one year to fill up the posts on regular basis as the vacancies are to be identified and, thereafter, Jharkhand Public Service Commission (JPSC for short) will publish advertisement for selection and after its recommendation, the appointment can be made. It was further submitted that if the same procedure is followed to fill up the posts on contract basis/or by stop gap arrangement then it will take about six months period and in the meantime, public in general will suffer.

2. Today (22nd December, 2004), in course of argument, counsel for the petitioner made certain suggestions. Learned Advocate General also gave suggestions and place the case of the State. It was brought to the notice of this Court that the State of Jharkhand from its Health and Family Welfare Department, in the meantime, has come out with a Resolution No. 531(4) dated 21st December, 2004, whereby guide lines have been issued to fill up the Medical

and Para-Medical posts on contract basis/or by way of stop gap arrangement.

3. Learned Advocate General relied on the provisions of Section 72(2) of the Bihar Re-organization Act, 2000. Under the said provisions, the Central Government by general or special order is required to determine the persons referred to sub-section (1) of Section 72 of the Act, 2000, be finally allotted to one or other successor State for service and the date with effect from which such allotment shall take effect. It is informed that no final notification of allotment of doctors having been issued by the Central Government u/s 72(2) of the Act, 2000, the State of Jharkhand is facing difficulty to identify the vacant posts which may be filled up by direct recruitment or from any other source.

4. Having heard the counsel for the parties and taking into consideration the suggestion made by them, the judgment of this Court passed in WP (C) No. 5334 of 2003 and the Government Resolution No. 531(4) dated 21st December, 2004 and to resolve the problem, we pass the following order :

(i) The State of Jharkhand will fill up the State Level Medical/Dental Service Cadre posts on regular basis, as early as possible, in accordance with law. In any case, regular appointments should be made within six months from the date of final allocation of State as may be notified by the Central Government u/s 72(2) of the Bihar Re-organization Act, 2000.

(ii) After final allocation of services of the members of Medical/Dental services under the State of Jharkhand, it will be open to the State to determine how many regular posts of State Medical/ Dental Services to be filled up by direct recruitment and/or through any others, source, as is permissible under the law.

(iii) In the meantime, the State of Jharkhand may make stop gap arrangement and appoint Doctors on contract basis/by stop gap arrangement. In such case, the selection should be made as per the guidelines laid down under Resolution No. 531(4) dated 21st December, 2004.

(iv) It will be open to the State to prepare a merit list on any of the following basis :

(a) Written test;

OR

(b) Written test + interview (viva-voce test);

OR

(c) Marks obtained in M.B.B.S./ B.D.S./Basic qualifying examination + interview (viva voce test)

Interview (viva-voce) marks should not exceed 25% of the total marks.

(v) It will also be open to the State to prescribe a minimum qualifying marks for written test and interview (viva voce test).

(vi) For the present, the advertisement for contract appointment/stop gap arrangement should be published at least in four leading newspapers, two English and two Hindi, Ranchi Edition by 31st December, 2004. The process of selection should be completed and order of appointment be issued on or before 1st February, 2005.

5. In the facts and circumstances, this Court is not inclined to proceed against the opposite parties for the present. If the Court's order is violated in future, it will be open to the concerned party to bring it to the notice of this Court.

6. This application stands disposed of, with the aforesaid observations/directions.

7. Let a copy of this order be handed over to the learned Advocate General and the counsel for the petitioner.