
(1987) 08 P&H CK 0020

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 3144 of 1987

Veena Saluja

APPELLANT

Vs

State of Haryana and Another

RESPONDENT

Date of Decision : 19-08-1987

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : AIR 1988 P&H 206

Hon'ble Judges : M.R. Agnihotri, J

Bench : Single Bench

Judgement

1. Petitioner Dr. Veena Saluja acquired her M.B.B.S. Degree in 1971 and joined the Haryana Civil and Medical Services (Class II) on 21st July, 1972, on ad hoc basis. Later on, in May, 1974, she was appointed on regular basis and has been continuing in service since then. During this long span of fifteen years" service, the petitioner has put in 2 years 8 months 18 days" "rural service" as she has served in various villages in the State of Haryana.

2. The Maharishi Dayanand University, Rohtak, respondent 2, has been inviting applications from time to time for admissions to the various Post-Graduate/ Diploma courses in the Medical College, Rohtak. For this admission to the Post-Graduate Course the doctors, who are working in the Haryana State Service like the petitioner, have to obtain "No Objection Certificate" from the State Government, respondent 1. It is only after the grant of this certificate that admission is granted against reserved seats within the quota meant for H.C.M.S. (Class II) doctors. Such certificates were granted to the petitioner for joining the Post-Graduate/Diploma Courses in 1982, 1985 and 1986, but the petitioner could not join the course due to her family circumstances.

3. On 8th Feb. 1987, the Maharishi Dayanand University, Rohtak, again invited applications for admission to Post-Graduate/Diploma Courses. In response thereto, the petitioner, on the authority of the "No Objection Certificate" issued in her favour on 17th Mar. 1986, applied against the reserved seats for H.C.M.S.

(Class II). Copy of the order granting the Certificate is annexure P/2. However, in the meantime, on 19th December, 1986, the State Government respondent 1, issued a policy letter (copy Annexure P/5) regarding reservation of seats and the eligibility of the candidates seeking admission to Post-Graduate Courses against those seats. Though the petitioner was fully eligible according to the aforesaid policy decision of the Government, yet due to some misreading and misunderstanding of the document, the petitioner was not granted admission against the reserved seats for H.C.M.S. (Class II) doctors. Aggrieved against this action of the respondents, the petitioner has approached this court by filing the present writ petition under Arts. 226 and 227 of the Constitution of India wherein she has prayed that a writ in the nature of mandamus be issued to the respondents for granting her admission against the reserved seats meant for H.C.M.S. (Class II) doctors by granting "No Objection Certificate" on the basis of her two years' regular rural service.

4. In reply to the writ petition, the plea taken by the respondents is that according to the Haryana Government Memorandum dt. 19th Dec., 1986(Annexure P/5), the petitioner was not entitled for admission against the reserved seats as she did not fulfil the condition of five years' regular service, inclusive of three years' rural service.

5. Having heard the learned counsel for the parties and after examining the material on record I feel that the stand taken by the respondents is wholly in correct and is based on complete misreading of the policy decision of the Government dt. 19th Dec., 1986(Annexure P/5). Para 3 of the Government decision under the heading "Reserved Seats" reads as under :--

"3. Doctors possessing 5 years regular service inclusive of 3 years rural service will only be eligible for the grant of N.O.C. Doctors in whose case N.O.C. has been granted for 1986-87 session and who possessed only 2 years rural service are given ex post facto relaxation from the aforesaid condition:"

Since "No Objection Certificate" had already been granted for 1986-87 session in favour of the petitioner and she possessed only two years' rural service. ex post facto relaxation from the aforesaid condition of three years' rural service stood already granted. The Government's decision with regard to the grant of "No Objection Certificate" for doing the Post-Graduate Course in the Medical College, Rohtak, against the reserved seats for H.C.M.S. (Class II) issued on 17th Mar, 1986 was for the session 1986-87 and the name of the petitioner finds mention at serial No. 5 in the list of doctors who have been granted the "No Objection Certificate". Otherwise also, the "No Objection Certificate" once granted in favour of a doctor who is a member of the H.C.M.S. (Class II) for joining the Post-Graduate Course does not lose its efficacy and utility for the admission in the next session as such certificate is only granted if the doctor concerned has actually rendered the rural service for the requisite period. Obviously, prior to 19th Dec. 1986, the doctors applying for admission to the Post-Graduate Courses were required to have completed two years, rural service and it was from 19th

Dec. 1986, onwards that the condition of two years" rural-service was changed to that of three years" rural service. While doing so, State Government took scrupulous care in granting ex post facto relaxation to all those doctors who had already been granted "No Objection Certificate" for the 1986-87 session on the basis of their having completed two years" rural service. Therefore, in the face of this relaxation the action of the respondents in not granting "No Objection Certificate" to the petitioner for the purpose of admission to the Post-Graduate Course in 1987 session is wholly arbitrary and untenable in law. Consequently, the petitioner should have been granted admission on the basis of 1986-87 "No Objection Certificate" by the respondents themselves which, in fact, was granted by the Motion Bench on 2nd June, 1987 on provisional basis.

6. In the result, this writ petition is allowed and a writ of mandamus is issued directing the respondents to treat the provisional admission already granted to the petitioner in the post-Graduate course in Gynae at the Medical College, Rohtak, as regular. Respondent No. 1 is further directed to issue the "No Objection Certificate" to the petitioner for the purposes of treating her admission in the Post-Graduate Course against the reserved seats, that is, reserved for H.C.M.S. (Class II) doctors. The petitioner shall also be entitled to the costs of this petition which are quantified at Rs. 1,000/- .

7. Petition allowed.