

DR. SNEHELATA PATNAIK AND ORS.

A

v.

STATE OF ORISSA AND ORS.

JANUARY 22, 1992

[M.H. KANIA, CJ., T.K. THOMMEN AND P.B. SAWANT, JJ.]

B

*Education—Admission to post-graduation courses in Medical Sciences—Non-availability of qualified doctors for rural service—Suggestions of Supreme Court for iradication.*

The writ petition and the SLPs were dismissed by this Court's order dated 5.12.1991.

C

Taking judicial notice of the fact that the rural areas had suffered for non-availability of qualified doctors, this Court suggested that some preference might have to be given to in-service candidates who have done five years of rural service.

D

**HELD: 1.01.** The authorities might well consider giving weightage upto a maximum of 5 per cent of marks in favour of in-service candidates who have done rural service for five years or more. The actual percentage would certainly have to be left to the authorities. [327 B]

E

**1.02.** This might act as an incentive to doctors who had done their graduation to do rural service for some time. [326 E]

**1.03.** The observation in *Dr. Dinesh Kumar and Others v. Motilal Nehru Medical College, Allahabad and others*, [1986] 3 SCC page 727 at 740 to the effect that no weightage should be given to the candidate for rural service rendered by him so far as admissions to post-graduate courses are concerned is not the ratio of the judgment but a mere observation. [336 H—337 A]

F

**1.04.** The suggestions do not in any way confer any legal right on in-service students who have done rural service nor do they have any application to the selection of the students upto the end of the year. [337 B]

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*Dr Dinesh Kumar & Ors. v. Motilal Nehru Medical College, Allahabad & Ors.*, [1986] 3 SCC 727 at page 740, distinguished.

H

A ORIGINAL JURISDICTION: Writ Petition No. 844 of 1991.

(Under Article 32 of the Constitution of India)

WITH

B S.L.P. NOS. 16475 & 17635 of 1991.

N.S. Hegde, Amrendra Bal and J.R. Das for the Petitioners.

Soresh Roy, Ms. Kirti Mishra and P.N. Mishra for the Respondents.

C The Judgment of the Court was delivered by

**KANIA, CJ.** We have already dismissed the writ petition and special leave petitions by our order dated 5.12.1991. We would, however, like to make a suggestion to the authorities for their consideration that some preference might be given to in-service candidates who have done five years of rural service. In the first place, it is possible that the facilities for keeping up with the latest medical literature might not be available to such in-service candidates and the nature of their work makes it difficult for them to acquire knowledge about very recent medical research which the candidates who have come after freshly passing their graduation examination might have. Moreover, it might act as an incentive to doctors who had done their graduation to do rural service for some time. Keeping in mind the fact that the rural areas had suffered grievously for non-availability of qualified doctors giving such incentive would be quite in order. Learned counsel for the respondents has, however, drawn our attention to the decision of a Division Bench of two learned judges of this Court in *Dr. Dinesh Kumar & Ors. v. Motilal Nehru Medical College, Allahabad & Ors.*, [1986] 3 SCC page 727 at 740. It has been observed there that merely by offering a weightage of 15 per cent to a doctor for three years rural service would not bring about a migration of doctors from the urban to rural areas. They observed that if you want to produce doctors who are MD or MS, particularly surgeons, who are going to operate upon human beings, it is of utmost importance that the selection should be based on merit. Learned Judges have gone on to observe that no weightage should be given to a candidate for rural service rendered by him so far as admissions to post-graduate courses are concerned (see para 12 at page 741).

H In our opinion, this observation certainly does not constitute the ratio of the decision. The decision is in no way dependent upon these

observations. Moreover, those observations are in connection with All India Selection and do not have equal force when applied to selection from a single State. These observations, however, suggest that the weightage to be given must be the bare minimum required to meet the situation. In these circumstances, we are of the view that the authorities might well consider giving weightage upto a maximum of 5 per cent of marks in favour of in-service candidates who have done rural service for five years or more. The actual percentage would certainly have to be left to the authorities. We also clarify that these suggestions do not in any way confer any legal right on in-service students who have done rural service nor do the suggestions have any application to the selection of the students upto the end of this year.

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V.P.R.

Petitions disposed of: