

ITEM NO.55

COURT NO.2

SECTION X

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) Diary No(s).24933/2022

JASPREET SINGH MAKKAR & ORS.**Petitioner(s)****VERSUS****UNION OF INDIA & ORS.****Respondent(s)**

**(WITH IA No. 137540/2022 - CONDONATION OF DELAY IN REFILING /
CURING THE DEFECTS, IA No. 137539/2022 - EX-PARTE AD-INTERIM
RELIEF)**

Date : 16-09-2022 This petition was called on for hearing today.

CORAM :

HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s) **Mr Siddharth Bhatnagar, Sr Adv**
 Dr Charu Mathur, AOR
 Ms Tanvi, Adv.
 Mr Sanjay Kumar Dubey, Adv.
 Pracheta Kar, Adv.
 Mr. Aditya Sidhra, Adv.
 Mr. Nadeem Afroz, Adv.

For Respondent(s)

UPON hearing the counsel the Court made the following
O R D E R

- 1 Delay condoned.

- 2 The jurisdiction of this Court under Article 32 of the Constitution has been invoked by ten petitioners, who had served as Medical Officers on Short Service Commission¹ in the Army, Navy and Air Force. Details of their service in the Armed Forces have been tabulated in a chart which forms a part of the synopsis. According to it, their length of service varies between five years and ten years,

¹ "SSC"

six months.

- 3 The Information Bulletin for Post Graduate Courses in AFMS institutions through NEET-PG 2021 indicates that former SSC Medical Officers are eligible to apply for PG counselling in Armed Forces medical establishments after their release as Priority-IV candidates. The relevant part of the Information Bulletin reads as follows:

“16. Admissions for PG studies are strictly governed by Govt of India, Ministry of Defence letter No F/PC-8510/DGAFMS/DG-1/345/2013/D(Med) dated 6th March 2013 and amendments thereof. The admission and training is controlled by the Office of the DGAFMS in accordance with prevalent rules. The priority for admission of candidates is as follows:-

- (a) Priority-I - AFMS Officers detailed on advance specialist course/other courses as per guidelines of MCI/ NBE.
- (b) Priority-II - Foreign students sponsored by Government - On approval of DGAFMS/MoD/MEA subject to conditions laid down by the Govt. of India.
- (c) Priority-III - Medical Officers sponsored by Para Military Organization / other Govt. of India organization. Sponsorship certificate mentioning the subjects for sponsorship by the sponsoring authority is mandatory requirement for the candidate to be considered for counseling.
- (d) Priority-IV - Ex-SSC AMC Officers released from service after completion of contractual service and within three years after their release from service. The date of release should not be before 01 May 2018 or after 31 Jan 2022 for the NEET PG 2021 session starting in Feb 2022 this time due to the Covid pandemic. SSC officers in the last year of initial contractual service and likely to finish the initial contractual service and released from service before the date of admission which is 01 Feb 2022, this time may appear under this category. SSC officers in their extended contractual service may apply for this category subject to having submitted their application for release and only with permission of the DGAFMS. At the time of admission to any college, they will have to produce documentary proof of their attaining Ex-SSC status by the day of admission without which they will not be considered for admission to the college. Officers who have resigned their commission /dismissed

/removed from service/ not completed their initial contractual service are NOT eligible under this category. Such officers are also not eligible as Priority-V candidates.

- (e) Priority-V - Civilian candidates willing to serve in the Armed Forces Medical Services (AFMS) subject to their fulfilling the eligibility criteria mentioned at para 20 below. It may be noted that offering of PG seats to civilian candidates as Priority V is with sole objective to meet the specialist requirement of the Armed Forces Medical Services. Civilian candidates will have to submit a bond agreement to pay an amount as sanctioned by the Govt. of India at the time of allotment of PG seat, in case they are unwilling to join AFMS when offered commission. They also have to be medically fit to the standards required for commission in the AFMS at the time of admission. Officers of the AFMS who have resigned their commission/dismissed/ removed from service/ not completed their initial contractual service as SSC officers are not eligible to be considered even as Priority-V candidates, though they may be below 30 years of age."

4 As the above tabulation indicates, the petitioners are placed in Priority-IV. They have invoked the jurisdiction under Article 32 of the Constitution seeking:

- (i) Clarity on inter-changeability of candidates under Priority-IV with candidates under Priority-III;
- (ii) A direction to the respondents to consider Priority-IV candidates as Priority-III candidates for the distribution of seats in NEET PG; and in the alternative
- (iii) directing the respondents to consider ex-SSC medical officers of the Indian Armed Forces who fall in Priority-IV at par with Priority-III.

5 The fulcrum of the case of the petitioners is based on a representation which was submitted by one of the petitioners to the Chief of the Army Staff on the 'Armaan App'. The representation related to the grievance which has been set out earlier and met with the following response:

“Your case was looked into at an appropriate level. The AFMA PG counselling is conducted by the O or o DGAfMS and the AFMS seats are offered to the candidates in order of precedence of priority and merit cum choice. The order of priority is as per GOI MoD letter No F PC 8510 DGAfMS DG 1 345 2013 D Med dt 06 Mar 2013. However a case has been taken up with MoD D Med to interchange the priority Ex SSC Officers to be given the status of priority III and Central Government sponsored candidates to be given the status of priority IV and the same is awaiting approval from MOD D Med.”

- 6 Essentially, the reliefs which have been sought in these proceedings are that the placement of the case of SSC Medical Officers of the Armed Forces in Priority-IV should be altered to Priority-III by interchanging candidates in Priority-III with Priority-IV or by treating Priority-IV candidates at par with Priority-III candidates. The reliefs clearly pertain to the policy domain. Moreover, counselling has already commenced. Hence, no such relief can be granted by this Court for that additional reason.
- 7 The intimation which has been furnished to the petitioners in response to the representation by one of them on 1 August 2022 indicates that the issue was taken up with the Medical Branch of the Ministry of Defence. Whether the Central Government should accede to the request or otherwise is a matter where this Court should not express any opinion. However, we are of the considered view that it would not be open to this Court to grant such a relief either for the alteration of priorities or, for that matter, of interchanging the priorities as set out in the Information Bulletin. The petitioners would be at liberty to pursue their representation before the competent authorities.
- 8 The petition is dismissed.
- 9 Pending application, if any, stands disposed of.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR