

Serial No. 03
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 344 of 2018

Date of Order: 07.04.2021

Dr. Shailendra Kumar & Ors. Vs. Union of India & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Mr. A. Das, Adv. with
Mr. A. Singhvi, Adv.

For the Respondent(s) : Dr. N. Mozika, ASG with
Ms. T. Sutnga, Adv.

1. The instant matter was heard at some length with arguments advanced by both sides. The basic question involved in this writ petition is with the claim of the petitioners, who are stated to be General Duty Medical Officers (GDMO) with Post Graduate qualifications; to be treated at par with specialists, to be part of a common cadre of GDMOs with PG alongwith the specialists and to be posted only in a composite hospital, as per the policy decision dated 07.12.2011, apart from allowing lateral entry into a Specialist post.

2. The grievances as put forward is that the GDMO's having obtained a specialized degree, are still not considered as specialists within the same cadre, though for all purposes they are said to be at par with the specialists. From the materials produced before

this Court today, it is observed that there is a sanctioned strength of 289(two hundred eighty-nine) specialists and 5(five) super specialists in the CAPF i.e. AR, CISF, CRPF, ITBP, NSG, SSP. As per the affidavit of the respondents, it seems that against the said sanctioned strength, only 51 (fifty-one) regularly recruited specialists are in place and a certain amount of the shortfall is made out by appointing specialist doctors on a contractual basis.

3. A question that arises, which seems to be of great relevance to the issue, is as to why a GDMO with Post Graduate qualifications otherwise considered to be treated at par with the other specialists, be not considered to be holding a post against this sanctioned strength, as they hold equivalent qualification, or why the GDMO's with PG be not allowed lateral entry into the Specialist Cadre. This observation arises from the fact that by order dated 26th March 2018, ('Annexure S' to the writ petition) issued by the Ministry of Home Affairs, Police-II Division/Pers-I Section vide F. No. 45025/06/2018-Pers.I, certain steps have been taken by the respondents to consider various other aspects of the grievances as put up by the petitioner No.1. The relevant portion for the sake of convenience is extracted herein below:-

“4. Now therefore, after perusal of the entire matter, the following directions are given :-

- (i) With regard to Lateral transfer/deputation of GDMOs with PG qualification to Specialist sub-cadre, for betterment of CAPFs/Composite Hospitals, the suggestions being found reasonable and hence ADG (Med), CAPFs, NSG & AR is directed to formulate necessary Standard Operating Procedures on the matter. However, there shall be no change in the cadre identity of the officer concerned. Action taken be intimated to MHA as well as to the petitioner.***

- (ii) *With regard to rationalized posting of Obs. & Gynae Specialists and Paediatrician in CAPFs hospitals, that the same is already under consideration with ADG (Med), who shall submit this to MHA for consideration in a time bound manner.*
- (iii) *With regard to provision of PICU & NICU set up in CAPFs hospitals, the ADG (Med) will undertake immediate steps for such set up to the extent administratively feasible.*
- (iv) *With regard to phase-wise activation of CHs of CAPFs, NSG & AR for Strengthening of the CAPFs health care system, the suggestion will be duly considered by ADG (Med) while preparing proposals for setting up such units.*
- (v)
- (vi)

This has the approval of the Union Home Secretary.

Sd/-
(Harish Chandra Rai)
Under Secretary to the Government of India

4. On these questions, the learned ASG, apart from having shown this Court that all the petitioners are all currently posted in composite hospitals, prays that he may be allowed 4(four) weeks' time to come up with specific instructions on these aspects as highlighted by this Court, and as to whether any other steps have been forthcoming in this regard.

5. Prayer is allowed, accordingly list this matter for further consideration after 4(four) weeks.

JUDGE

Meghalaya
07.04.2021
"V. Lyndem-PS"