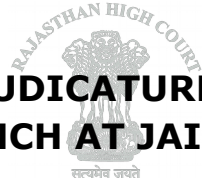




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 18727/2023

Dr. Seikh Mohmmad Afzal S/o Abdul Hamid, Aged About 46 Years, Presently R/o G-15, Makadwali Road, Vashali Nagar, Ajmer, Rajasthan.

-----Petitioner

Versus

1. State Of Rajasthan, Through Its Principal Secretary, Department Of Medical Education, Government Of Rajasthan, Government Secretariat, Jaipur, Rajasthan.
2. Joint Secretary, Department Of Medical Education, Government Of Rajasthan, Government Secretariat, Jaipur, Rajasthan.
3. Chairman, Dm/m.ch/m.d./m.s./ Other Candidates Allotment Board-2023, Ruhs College Of Dental Scinces, Government Of Rajasthan, Subash Nagar, Behind T.b. Hospital, Jaipur, Rajasthan.
4. Secretary, National Medical Commission, Pocket 14, Sector 8, Dwarka Phase-I, New Delhi-110077.

-----Respondents

For Petitioner(s) : Mr. Aslam Khan
For Respondent(s) : Mr. G. S. Gill, AAG through VC with
Mr. Surya Pratap Singh
Mr. Angad Mirdha

HON'BLE MR. JUSTICE SAMEER JAIN

Order

Reportable

Reserved on 20/03/2024

Pronounced on 29/05/2024

1. The instant petition is filed under Article 226 of the Constitution of India, with the following prayers, as reproduced herein-under:-

"a) By an appropriate writ, order or direction, the respondents may be directed to perform their statutory legal obligation and to adhere to the Right of



Persons with Disabilities Act, 2016, Rajasthan Right of Persons with Disabilities Rules, 2021 (amended) and the circulars dated 01.12.2021 and guidelines issued by the State.

b) By an appropriate writ, order or direction, the respondents may be directed to grant the age relaxation to the petitioner in terms of the rule 6A of the Rajasthan Right of Persons with Disabilities Rules 2021 (amended) and to allot him the seat of senior resident as per his merit in his relevant category.

c) By an appropriate writ, order or direction the action of the respondents while not providing age relaxation to the persons with disabilities be declared bad and illegal and respondents be directed to Extend the benefit of age relaxation in accordance with notification 14.10.2021 and circular dated 01.12.2021 on all the identified posts.

d) By an appropriate writ, order or direction, the respondents may be directed to consider the candidature of the petitioner with in age after granting relaxation and further allow him allot the seat of Senior resident and to serve the state against the seats of notification dated 01.09.2023.

e) Any other appropriate order or direction which the Hon'ble Court may deem fit and proper in the facts and circumstances of the case along with the cost of the writ petition."

2. Learned counsel for the petitioner, Mr. Aslam Khan, submitted that it is an undisputed fact that the petitioner is a person with a benchmark disability to the extent of 40%. At present, the petitioner is rendering his services on the post of Senior Demonstrator with the Medical Education Department. The petitioner was allotted the seat of M.D. Pediatrics in NEET-PG 2020 in the OBC PwD Category, in pursuance to which, the petitioner successfully completed his PG Course on 01.08.2023. Thereafter, the respondent no.3 notified seats to serve the State as Senior Resident on 01.09.2023. Being eligible, the petitioner applied for



the post of Senior Resident. Pursuant to the same, the petitioner preferred an application before the respondents for the grant of age relaxation in terms of the Rajasthan Rights of Persons with Disabilities Rules 2018, as amended in 2021 (hereinafter, Rules of 2018). The candidature of the petitioner for the post of Senior Resident was included in the merit list dated 04.11.2023, but did not find place in the revised merit list dated 06.11.2023, on the pretext that the petitioner had crossed the prescribed upper age limit of 45 years.

3. In this background, being aggrieved of the said rejection of the petitioner's candidature, the petitioner has approached this Court and argued as under:-

3.1 That the petitioner is entitled for the grant of age relaxation in terms of Rule 6A of the Rules of 2018. Therefore, if granted the said relaxation, for which the petitioner duly applied, the petitioner's candidature would not have been rejected.

3.2 That Annexure-3 i.e. Instruction Booklet for allotment to serve the State Government on the post Senior Resident, provides 4% horizontal reservation for candidates with specified disabilities as per the Rights of Persons with Disabilities Act 2016 (hereinafter, Act of 2016) and the corresponding Rules of 2018.

3.3 That illustratively, the All India Institute of Medical Sciences (AIIMS) Jodhpur, vide Annexure-4, has also granted age relaxation to persons with benchmark disabilities to the extent of 10 years for PwD-General Candidates, 13 years for PwD-OBC Candidates and 15 years for PwD-SC/ST Candidates.



3.4 That similarly, vide Annexure-4, on a pan-India basis, several medical colleges such as Dr. Ram Manohar Lohia Hospital New Delhi, Satywadi Harish Chandra Hospital New Delhi amongst others, have granted age relaxation for persons with disabilities.

3.5 That in terms Annexure-7 i.e. notification dated 14.10.2021, issued by the Department of Social Justice and Empowerment Directorate of Specially Abled Persons, relying upon the provisions of Section 101 of the Act of 2016, reservation of vacancies is provided for persons with disabilities. Moreover, as per the newly inserted Rule 6A, a further age relaxation of 5 years is granted to persons with disabilities, in addition to that already provided in the distinct services rules applicable upon the different candidates.

3.6 That the newly inserted Rule 6A is applicable qua the petitioner and the present set of contractual employment for the subject post of Senior Resident, for which the petitioner's candidature was rejected on the pretext of the petitioner being over-age.

3.7 That Annexure-8 i.e. circular issued by the State Government dated 01.12.2021, in compliance with the circular dated 14.10.2021, has also considered the aforesaid aspect and provided for the grant of age relaxation to the extent of 5 years.

4. In support of the arguments advanced qua age relaxation in favour of the petitioner, learned counsel for the petitioner placed reliance upon the dictum of the Hon'ble Apex Court as enunciated in **Net Ram Yadav V/s State of Rajasthan** reported in **2022 LiveLaw (SC) 684, Civil Appeal No. 1567/17** titled as



Siddaraju V/s State of Karnataka and Ors., Rajeev Kumar Gupta V/s Union of India and Ors. reported in **(2016) 13 SCC 153** and **Civil Appeal No. 529/2023** titled as **Reserve Bank of India and Ors. V/s A.K Nair and Ors.**

5. Conclusively, it was prayed that in the spirit of the Act of 2016 and in strict compliance with the provisions of the Rules of 2018 and the corresponding circulars/notification so issued from time to time, age relaxation should be afforded to the petitioner and as a result, the instant petition be allowed in terms of the prayers so advanced.

6. *Per contra*, learned counsel for the respondent-NMC, Mr. Angad Mirdha, categorically prayed for the dismissal of the instant petition, whilst asserting that the impugned action of the respondents, in rejecting the petitioner's candidature on the ground of the petitioner being over-age, is purely in consonance with the settled position of law and therefore, warrants no interference of this Court.

7. In support of the said assertion, learned counsel submitted that the subject advertisement so issued for the post of Senior Resident, in categorical terms, has specified that the age limit beyond the period of 45 years, at the time of initial appointment, shall make the candidate ineligible for the post of Senior Resident, as the same would be *de hors* the norms of NMC Act, 2019 and the Regulations of 1998, as amended in the Year 2022 nomenclatured as Teacher Eligibility and Minimum Qualification in Medical Institutional Regulations 1998 (hereinafter, Regulations of



1998). Furthermore, learned counsel contended that it is a settled law that when there are specific statutory regulations created under List I of the 7th Schedule, higher standards of medical education ought to be maintained in the country. In this regard, it was submitted that the services of Senior Residents form part of the backbone of all major Government Hospitals, for which the legislature in its own wisdom has prescribed the upper age limit of 45 years and therefore, no deviation can be made from the same. As a result, the provisions of the Act of 2016 and the Rules of 2018 cannot be applied in the present factual matrix. Lastly, learned counsel placed reliance upon Article 254 of the Constitution of India and submitted that in the present set of facts, the NMC Act of 2019 shall assume applicability, as opposed to the Rules of 2018.

8. Lastly, whilst praying for the dismissal of the instant petition, learned counsel placed reliance upon the dictum of the Hon'ble Apex Court as enunciated in **MCI Vs. State of Karnataka** reported in **(1998) 6 SCC 131**, **Christian Medical College & Ors. Vs. Medical Council of India** reported in **(2014) 2 SCC 305**, **Dr. Preeti Srivastava Vs. State of M.P. & Ors.** reported in **(1999) 7 SCC 120**, **Tamil Nadu Medical Officers Association & Ors. Vs. Union of India & Ors.** reported in **(2021) 6 SCC 568**, and **Baharul Islam & Ors. Vs. The Indian Medical Association & Ors.** reported in **2023 SCC Online SC 79** amongst others.



9. Learned counsel for the State, Mr. G.S. Gill AAG, virtually endorsed the foregoing arguments advanced by the learned counsel for the respondent-NMC.

10. Heard and considered the arguments advanced by learned counsel for both the sides, scanned the record of the instant petition and perused through the judgments cited at Bar.

11. Upon an assiduous perusal of the record of the instant petition, the following germane stipulations and/or facts have emerged, necessary for the efficacious adjudication of the *lis* before this Court, namely:-

11.1 That as per the Additional Certificate of Registration, as issued in favour of the petitioner by the Rajasthan Medical Council, it becomes evident that the D.O.B. of the petitioner is 11.04.1977.

11.2 That it is also an undisputed fact that the petitioner is an individual with a benchmark disability. Therefore, the petitioner filled the form for the post of Senior Resident under the OBC-PwD Category.

11.3 That it is also an undisputed fact that Annexure-3 i.e. Instruction Booklet for allotment to serve the State Government on the post Senior Resident/Advertisement, provides 4% horizontal reservation for candidates with specified disabilities as per the Rights of Persons with Disabilities Act 2016 (hereinafter, Act of 2016) and the corresponding Rules of 2018.

11.4 That in addition to the aforesaid, it is an admitted position that the All India Institute of Medical Sciences (AIIMS) Jodhpur,



vide Annexure-4, has granted age relaxation to persons with benchmark disabilities to the extent of 10 years for PwD-General Candidates, 13 years for PwD-OBC Candidates and 15 years for PwD-SC/ST Candidates. Similarly, following the mandate of the Act of 2016, on a pan-India basis, several other medical colleges such as Dr. Ram Manohar Lohia Hospital New Delhi, Satywadi Harish Chandra Hospital New Delhi amongst others, have also granted age relaxation for persons with disabilities.

11.5 That vide notification dated 14.10.2021, in exercise of powers conferred vide Section 101(1) and 101(2) of the Act of 2016, the State Government/Department of Social Justice and Empowerment issued an amendment notification in the Rajasthan Gazette on 21.10.2021 (marked as Annexure-7), whereby a novel Rule 6A was introduced in the erstwhile Rules of 2018. For ready reference, the newly inserted Rule 6A is reproduced herein-under:-

"6A: Relaxation in age: *The maximum age limit prescribed for direct recruitment in the relevant service rules shall be relaxed by 5 years for persons with benchmark disabilities specified under rule 5. Such age relaxation shall be in addition to the age relaxation already provided to different categories in relevant service rules."*

11.6 That even a cursory reading of Rule 6A makes it abundantly clear that the said Rule provides for a relaxation in age for the candidates with benchmark disabilities, by an extent of 5 years, in matters of direct recruitment.

11.7 That Annexure-8 i.e. circular issued by the State Government dated 01.12.2021, in compliance with the notification



dated 14.10.2021, has also considered the aforesaid aspect and provided for the grant of age relaxation to the extent of 5 years in matters of direct recruitment concerning persons with benchmark disabilities.

11.8 That additionally, in no uncertain terms, Section 96 of the Act of 2016 provides that the provisions of the Act of 2016 shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force. In essence, Section 96 stipulates that the mere enactment of the Act of 2016 shall not bar the application of any other provisions of law which are presently in force. For ready reference, Section 96 is reproduced herein-under:-

"96. Application of other laws not barred.- *The provisions of this Act shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force."*

11.9 That the incorporation of Section 96 within the ambit of the Act of 2016 is illustrative of the fact that to meet out the aims and objectives of the latter and to better understand the rights of disabled persons comprehensively and also, to empower such persons with full participation in society, the benefits under the Act of 2016, which is a beneficial piece of legislation, have to be supportive of and/or in addition to, the provisions of any other laws which are in force in the country. Resultantly, Section 96 makes it very clear that the benefits qua the disabled persons shall be in addition to and never in derogation of, any other laws for the time being in force.



11.10 That the Advertisement/Instruction Booklet (marked as Annexure-3), as issued by the respondents for recruitment on the post of Senior Resident, read with the Regulations of 1998 (marked as Annexure-R1) categorically provides that the recruitment on the post of Senior Resident shall be for a period not exceeding 3 years, and the graduate who shall apply for the said post, must be below the age of 45 years at the time of initial appointment.

11.11 That admittedly, as the petitioner's D.O.B. is 11.04.1977, the petitioner would be over the age of 45 years at the time of initial appointment i.e. in the Year 2023.

12. In this foregoing background, when it is an admitted fact that the petitioner is an individual with a benchmark disability, who is qualified to avail the benefit of reservation accorded to PwD candidates, the only impediment qua the petitioner's selection is the rider enumerated under the NMC Act of 2019 and the Regulations of 1998, as amended in the Year 2022, which provide for the upper-age limit for recruitment on the post of Senior Resident to be 45 years on the date of initial appointment.

13. Therefore, after considering the fact that the only pretext, upon which the petitioner's candidature was rejected for appointment on the post of Senior Resident, pertained to the petitioner being over-age as per the stipulations of the Advertisement (Annexure-3) and the NMC Act 2019 and the Regulations of 1998, this Court deems it appropriate to formulate



the following question of law, redressal of which, shall put the controversy before this Court at rest:-

"Whether the provisions of the Act of 2016 shall be applicable upon the candidates in addition to the regulations formulated under the NMC Act of 2019 nomenclatured as the Teachers Eligibility Qualifications in Medical Institutions Regulations 1998 or the latter shall assume applicability in isolation of the former?"

14. At this juncture, this Court deems it appropriate to note that in the Year 2007, India ratified the United Nations Convention on the Rights of Persons with Disabilities. The Convention laid down certain principles to be followed by the signatory States for empowerment of persons with disabilities. It required signatory States to make appropriate changes in law as well as in policy to give effect to the principles of the Convention. Correspondingly, the Act of 2016 was promulgated with the basic aim/object of respecting the difference and accepting the persons with disabilities as part of human diversity and humanity, whilst bestowing them with equal opportunities in all public spheres.

15. Therefore, it goes without saying that the Act of 2016 is a beneficial piece of legislation, major features of which include non-discrimination, participation, equality of opportunity and inclusion of disabled persons within the society. In order to confer statutory backing upon the noted features, the Act of 2016, by way of Section 2(h) and 2(r) has defined 'discrimination' and 'persons with benchmark disabilities'. Moreover, to pave the way for respectable consideration, participation in society and providing equality of opportunity and acceptance, Section 34 has provided



for 'reservation' which is to be provided by the appropriate Government.

16. Accordingly, in the given facts and circumstances of the case, it is noted that the subject Advertisement for recruitment on the post of Senior Resident i.e. Annexure-3, has duly provided for reservation for PwD candidates, to the extent of 4%, in compliance of the provisions of the Act of 2016 and the corresponding Rules of 2018. Therefore, once reservation as per the Act of 2016 and the corresponding Rules of 2018 is granted for recruitment on the post of Senior Resident, then full swing ought to be granted to the provisions of the said Act and Rules, and a liberal view ought to be taken on the aspect of age relaxation, as is already provided by the newly inserted Rule 6A of the Rules of 2018.

17. It is also noteworthy that in exercise of the powers granted under Section 101(1) and 101(2) of the Act of 2016, the Government of Rajasthan promulgated the Rules of 2018, which vide notification dated 14.10.2021 (Annexure-7), came to be amended as to include the newly inserted Rule 6A which makes it abundantly clear that in matters of direct recruitment, the said Rule shall provide for a relaxation in age for those candidates with benchmark disabilities, by an extent of 5 years.

18. Therefore, at this juncture, taking note of the fact that the concerned Advertisement/Instruction Booklet for recruitment on the post of Senior Resident (Annexure-3), by way of Clause 4, provides for reservations for PwD candidates in compliance of the



Act of 2016 and the corresponding Rules of 2018, then in such an eventuality, for the same recruitment process, the newly inserted Rule 6A of the Rules of 2018 shall also assume relevancy, providing for age relaxation of five years to the candidates with benchmark disabilities.

19. As a result, the respondents, for the same recruitment process, cannot pick and choose the applicability of the provisions of the Rules of 2018, whereby on the one hand, in compliance of the said Rules, they provide for horizontal reservation to the extent of 4% for persons with disabilities, but on the other hand, refuse to grant age relaxation in terms of Rule 6A, especially in the overarching circumstances whereby it is an admitted position that the All India Institute of Medical Sciences (AIIMS) Jodhpur, vide Annexure-4, has granted age relaxation to persons with benchmark disabilities to the extent of 10 years for PwD-General Candidates, 13 years for PwD-OBC Candidates and 15 years for PwD-SC/ST Candidates. Moreover, similarly, following the mandate of the Act of 2016, on a pan-India basis, several other medical colleges such as Dr. Ram Manohar Lohia Hospital New Delhi, Satywadi Harish Chandra Hospital New Delhi amongst others, have also granted age relaxation for persons with disabilities.

20. This Court, when encountered with the task of interpretation of a beneficial piece of legislation such as the Act of 2016 and the corresponding Rules of 2018, must underline the idea that in order to render social justice amongst the persons with disabilities, candidates belonging to said categories must be awarded



proportionally equal opportunities to present a level playing field and provide them with equal opportunities for further acceptance in the society. A harmonious interpretation of the Act of 2016 with the Rules of 2018, especially the newly inserted Rule 6A shall facilitate greater participation in public recruitment for persons with disabilities, which shall inadvertently lead to non-discrimination with their peers, resulting into equality of opportunity and inclusion of disabled persons within the society.

21. In support of the observations recorded herein-above, this Court deems it appropriate to place reliance upon the dictum of the Hon'ble Apex Court as enunciated in **A.K Nair**. The relevant extract of the said judgment is noted herein-under:-

*"44. Our answers to the aforesaid questions should be prefaced by a brief reference to the supreme law of the land. The resolve in the Preamble to the Constitution and the provisions in Part IV thereof, are considered relevant. **Our preambular promise is to secure 'social justice' to all.** The Directive Principles of State Policy, though not enforceable, are declared in Article 37 to be "fundamental in the governance of the country" and the State has a duty to apply these principles in making laws. **The immediately next Article commands the State to strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice social, economic and political shall inform all the institutions of the national life and endeavor to eliminate inequalities in status, facilities and opportunities.** Article 41 requires the State, within the limits of its economic capacity and development, to make effective provision for securing the right to work, inter alia, in cases of disablement. **In the society we live in, which is indeed class-ridden, 'social justice' should mean justice to the weaker and poorer Section of the society, particularly when the people of the nation have***





resolved in the Preamble to secure 'equality of status and opportunity'. The underlying idea is that securing justice to the weaker and the poorer Section could make them equal with the rest of the society. In a case where the weaker Section is involved in a combat with the stronger Section and the scales are even, to rise to the challenge for securing 'social justice', the Courts of law ought to lean in favour of the former so that justice is ensured. **If persons with disabilities are denied the rights and privileges conferred by law of equal opportunities, protection of rights and full participation, inter alia, in the field of public employment, the disservice to such persons would inevitably be grave causing erosion of constitutional idealism and respect for human rights apart from extreme mental agony and pain of the deprived.** Where such situations emerge, the courts should not remain mute and dumb. No court, far less this Court, should condone the breaches and violations by employers/establishments arising out of treading of the illegal path by them."

22. In **Rajeev Kumar Gupta (Supra)**, the Hon'ble Apex Court held as under:-

"21. The principle laid down in *Indra Sawhney* is applicable only when the State seeks to give preferential treatment in the matter of employment under State to certain classes of citizens identified to be a backward class. Article 16(4) does not disable the State from providing differential treatment (reservations) to other classes of citizens Under Article 16(1) if they otherwise deserve such treatment. However, for creating such preferential treatment under law, consistent with the mandate of Article 16(1), the State cannot choose any one of the factors such as caste, religion etc. mentioned in Article 16(1) as the basis. **The basis for providing reservation for PWD is physical disability and not any of the criteria forbidden Under Article 16(1). Therefore, the Rule of no reservation in promotions as laid down in *Indra Sawhney* has clearly and normatively no application to the PWD.**"





23. Following suit, the Hon'ble Apex Court in **Net Ram Yadav (Supra)** held as under:-

"31. One of the hindrances/disadvantages faced by the physically disabled persons is the inability to move freely and easily. In consideration of the obstacles encountered by persons with disabilities, the State has issued the said notification/circular dated 20th July 2000 for posting disabled persons to places of their choice, to the extent feasible. The object of this benefit to the physically disabled is to, inter alia, enable the physically disabled to be posted at a place where assistance may readily be available. The distance from the residence may be a relevant consideration to avoid commuting long distances. **The benefit which has been given to the disabled through the Circular/Government Order cannot be taken away by subjecting the exercise of the right to avail of the benefit on such terms and conditions, as would render the benefit otiose.**"

24. Accordingly, the arguments advanced by the learned counsel for the respondents and the corresponding judgments so cited, cannot be countenanced in the noted factual matrix of the instant petition, for the following reasons, namely:-

24.1 That Section 96 of the Act of 2016 provides that the provisions of the Act of 2016, shall be in addition to, and not in derogation of, the provisions of any other law for the time being in force. Similarly, the corresponding Rules of 2018, framed in exercise of the powers conferred under Section 101 of the Act of 2016 shall prevail in addition to the provisions of any other applicable law.

24.2 That the Act of 2016 is a beneficial piece of legislation and therefore, to give the intended effect to its provisions, Rule 6A of the Rules of 2018 providing for age relaxation, ought to be



complied with to underline the idea that in order to render social justice amongst the persons with disabilities, candidates belonging to said categories must be awarded proportionally equal opportunities to present a level playing field and provide them with equal opportunities for further acceptance in the society.

24.3 Therefore, the provisions of the Regulations of 1998/NMC Act of 2019 providing for the upper age limit of 45 years ought to be read in conjunction with Rule 6A of the Rules of 2018, providing for age relaxation to the extent of 5 years.

24.4 That the intent behind the inclusion of Rule 6A in the applicable Rules of 2018 is to present a level playing field to the candidates with benchmark disabilities, by reducing the upper-age limit as prescribed by the respective statutes, so that such candidates may have greater inclusion and acceptance in vocational fields of study and practice, which were once amiss of their services. Therefore, the benefit which has been given to the candidates with benchmark disabilities vide Rule 6A and also, Annexure-8 i.e. Circular dated 01.12.2021, as issued by the State Government, cannot be taken away from such candidates by subjecting the said Rule and/or Circular, to such conditions of the Regulations of 1998, which would render the intended benefit otiose.

24.5 That the argument advanced by the learned counsel for the respondents stating that age relaxation cannot be granted to the petitioner as the advertised post of Senior Resident forms part of the backbone of the State Government's medical services is,



misplaced to say the very least, especially considering the fact that the State Government, by its own volition, has also made the age of retirement for Senior Medical Professors extendable from 60 to 70 years.

24.6 Therefore, in cumulative light of the foregoing observations, this Court deems it appropriate to answer the question of law, as formulated above, by holding that the provisions of the Act of 2016 and the corresponding Rules of 2018 shall be applicable upon the persons with benchmark disabilities *in addition to* the regulations formulated under the NMC Act of 2019 nomenclatured as the Teachers Eligibility Qualifications in Medical Institutions Regulations 1998, for achieving the intended benefit of the newly introduced Rule 6A of the Rules of 2018 and also, Annexure-8 i.e. Circular dated 01.12.2021, as issued by the State Government, which provide for the grant of age relaxation for candidates with benchmark disabilities in matters of direct recruitment.

25. As a result, the Regulations of 1998 cannot be permitted to operate in isolation, as a natural consequence of said operation, shall render the benefits enumerated under the Act of 2016 and the corresponding Rules of 2018, otiose.

26. Conclusively, it is noted that employment is a key factor in the empowerment and inclusion of people with disabilities in the society. It is an unnerving fact of the present times that disabled individuals are out of employment, not because their disability acts as a hindrance in their way of functioning; but rather, it is the social and practical barriers created by the society that prevent



them from joining the workforce in full effect. As a result, many disabled individuals, who are equally competent as those *sans* said disabilities, live in poverty due to the denial of their right to make a useful contribution to their own lives and also, to the lives of their families and community. Therefore, in such times, when beneficial pieces of legislation are put in place in the society, equally backed by the practice of leading institutions in the country, the same ought to be duly honoured, so as to not render their intended benefits counterproductive.

27. In cumulative view of the above, the instant petition, in terms of the prayers so advanced, is allowed.

28. Consequently, the petitioner, who was born on 11.04.1977, is granted the benefit of age relaxation, by an extent of 5 years, for direct recruitment on the post of Senior Resident, as advertised vide Annexure-3, thereby making him eligible for direct recruitment on the said post.

29. This Court also notes that the tenure of the advertised post of Senior Resident has already commenced, which only spans for a limited period of 3 years. Therefore, this Court deems it appropriate to direct the respondents to permit the petitioner to join the same with immediate effect. At the same time, in exercise of the inherent powers of this Court under Article 226 of the Constitution of India and also, Section 89 of the Act of 2016, this Court deems it appropriate to levy a cost of Rs. 1 lac upon the respondent-NMC and the respondent-State, to be divided equally, for the delay and hardship caused to the petitioner, who is a



meritorious candidate, subjected to undue hindrances, on account of the unsubstantiated, merit-less and counterproductive obstacles.

(SAMEER JAIN),J

Pooja /Neeru

