
(2010) 11 SHI CK 0349
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 6409 of 2008

Desh Raj

APPELLANT

Vs

The State of H.P. and Another

RESPONDENT

Date of Decision : 12-11-2010

Acts Referred:

Indian Medicine Central Council Act, 1970 — Section 17

Citation : (2010) 11 SHI CK 0349

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Judgement

V.K. Sharma, J.—The petition has been filed for grant of the following substantive reliefs vide para 7(i) and (v):

7(i) That the respondents may be directed to consider the case of the applicant for appointment as Ayurvedic Pharmacist (Ayur. Bhishak) w.e.f. the date his juniors and similar persons namely Sh. Des Raj and Sh. Sampooran Singh were appointed as such, in pursuance to the interview held on 6.9.1982 forthwith.

7(ii) Or in the alternative, The respondents may be directed to consider the case of the applicant for appointment as Ayurvedic Pharmacist against the vacancies which were filled up in the year 1984 and then again in the year 1990/1991 (and when the applicant was declared ineligible for the said post, on the ground of Derecognition of his course, by the respondents, which is illegal) forthwith.

7(iii) That in case Relief(s) (I) and (ii) are inadmissible, then, the respondents may be directed to consider the case of the applicant for appointment of Ayurvedic Pharmacist, on the basis of the policy of the respondent State for making batchwise recruitment vide A9 dated 15.5.1998 forthwith.

7(iv) That the action of the respondents in treating the applicant as ineligible for the post of Ayurvedic Pharmacist/Ayur. Bhishak, on the ground of Derecognition of his 2 years diploma course of Ayurveda Bhishak, for appointment as Ayurvedic Pharmacist by the respondent State may be declared

illegal and contrary to the Indian Medicines Central Council Act 1970 and contrary to A7 forthwith.

7(v) That the respondents may be directed to produce the records regarding the factum of not appointing the applicant as Ayurvedic Pharmacist in the year 1982, 1984, 1990/1991 and in the year 1997/1998 forthwith.

2. In reply, the following stand has been taken by the respondents vide para 6(iii), (v) and (xi):

6(iii) That the applicant had passed 2 years Diploma course known as Ayurveda Bhishak. But as per provision contained in the R and P Rules of the post of Ayurved Pharmacist which was notified vide notification dated 201298, the applicant is not eligible to be appointed against the post of Ayurveda Pharmacist.

6(v) In reply to this para it is submitted that though the Degree/Diploma of Ayurvedic Bhishak, Vaidya Vishard and Vaidyacharya from all India Vaidya Peeth, New Delhi is recognized for registration, but the qualification possessed by the applicant does not commensurate with qualification prescribed in the R and P Rules of Ayurvedic Pharmacist, which are presently enforced. There is no provision of registration for Ayurvedic Pharmacist in Board of Ayurvedic Medicine and Unani System of Medicine H.P. Act, 1968.

6(xi) Admitted to the extent that the name of the applicant was not sponsored for the post of Ayurvedic Pharmacist for which interview were held on 6.12.97, but he was interviewed in compliance to the order passed by this Hon'ble Tribunal in O.A. No. 2267/97. He was not found eligible for the said post, hence he was not selected.

3. In case the petitioner still has any surviving grievance with regard to the factual and legal position, it will be open to him to approach the respondents alongwith copies of this judgment and original application (O.A.) within a month, in which case the respondents will look into the matter by taking due note of the fact that two similarly situate persons, namely, Sampooran Singh and Des Raj, mentioned in para 6(viii) of the O.A., who were possessing identical qualification were considered and have since been appointed as Ayurvedic Pharmacist and taking into consideration the relevant R and P Rules with regard to the equivalence of qualification as also by virtue of Section 17 of The Indian Medicine Central Council Act, 1970, read with Entry No. 12 of Schedule II to the said Act, and take appropriate action in accordance with law and justice and appropriate orders thereon shall be passed within three months.

4. It is clarified that since the petitioner has been agitating the matter since April, 1999, earlier before the H.P. State Administrative Tribunal (since abolished) and thereafter before this Court, the respondents may consider grant of relaxation in the upper age limit in favour of the petitioner.

5. The petition stands disposed of in the above terms.