
(1998) 05 AHC CK 0046
In the Allahabad High Court
Case No : C.M.W.P. No. 15486 of 1998

Dr. H.S. Kutaula

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 29-05-1998

Acts Referred:

Constitution of India, 1950 — Article 309

Citation : (1998) 3 AWC 1972

Hon'ble Judges : D.P. Mohapatra, C.J;G.P. Mathur, J

Bench : Division Bench

Advocate : Ashok Kumar, for the Appellant;

Judgement

G.P. Mathur, J.—The U. P. Public Service Commission (hereinafter referred to as the Commission) issued advertisement No. 1/97 for making recruitment to 172 posts of veterinary doctors. In response to the advertisement, the petitioner made an application and he was called for interview. The result of the selection was declared on 22.10.1997 wherein the petitioner was shown to have secured 59th position. Subsequently, the Commission sent a letter dated 21.3.1998 to the petitioner informing him that his candidature had been cancelled. The present writ petition has been filed for quashing of the aforesaid order.

2. In the advertisement issued by the Commission, the eligibility qualification mentioned for the post of veterinary doctor was B.V.Sc. and A.H. degree from a recognised University and age between 21 and 32 years. It was further mentioned that a relaxation of five years in age may be granted to suitable candidates. It is not in dispute that the petitioner was more than 32 years of age on the prescribed date and he holds the degree of B.V.Sc. and A.H. and no other additional qualification. In the affidavit sworn on 19.4.1998. the petitioner has mentioned his age as 35 years. The order dated 21.3.1998 (Annexure-4 to the writ petition) mentions that as the petitioner does not possess any higher degree besides the degree of B.V.Sc. and A.H., like the degree of M.V.Sc., it is not possible to grant him relaxation in age and, therefore, his candidature has been

cancelled.

3. Shri Ashok Khare. learned counsel for the petitioner, has submitted that in the advertisement, it was mentioned that relaxation in age by five years can be granted to suitable candidates and the fact that the petitioner was called for interview and was selected having secured 59th position shows that he was found suitable not only for selection but also for relaxation of age and. therefore, the impugned order cancelling his candidature is illegal, Sri V. M. Sahai learned counsel for the Commission has submitted that U. P. Public Service Commission had taken a decision that the relaxation in age will be given only to such candidates who possess a degree higher than B.V.Sc. and A.H., i.e., a Masters Degree and since the petitioner did not hold such a degree, no relaxation in age could be given to him and his candidature has rightly been cancelled. The relevant part of the advertisement prescribing the age and qualification reads as follows :

^^-----vk;q 21 is 32 o"kZ ijUrq
vU;Fkk lq;ksX; vH;fFkZ;ksa ds fy;s vf/kdre vk;q lhek 5 o"kZ f"kfFkyuh; gksxh
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4. In our opinion, it was for the Commission to decide as to who could be considered to be "otherwise suitable candidate" and who may be granted relaxation in age. If the Commission took a decision that only those candidates who possessed a degree higher than the minimum degree of B.V.Sc. and A.H., i.e., a Masters Degree (M.V.Sc.) will be treated as otherwise suitable candidate, then no exception can be taken to such a decision. The decision is based on rational and sound principle and cannot be said to be arbitrary in any manner. It is well-settled principle that Courts should be slow to dislodge decisions of academic or expert bodies. See Maheshwar Prasad Srivastava Vs. Suresh Singh and Others, .

5. Shri Ashok Khare has submitted that the suitability of the petitioner had also been considered at the time when he was interviewed and having found him suitable for relaxation of age, the result was declared where the petitioner's name finds mention and, therefore, the further exercise in that behalf by the Commission is not only illegal but also without jurisdiction. In support of his submission, Sri Khare placed reliance on Dr. Krushna Chandra Sahu and others Vs. State of Orissa and others, . We are unable to accept the submission made. If every candidate holding minimum degree of B.V.Sc. and A.H. is held to be entitled to relaxation of age. It would amount to changing the eligibility criteria regarding age in the advertisement and- for every candidate, the upper age limit would be 37 years. This can never be the intention of the Government. The advertisement has to be read in a common sense manner and the upper age limit was 32 years. It is only in exceptional case that the relaxation in age could be granted and it could very well be on consideration of additional qualification. The expression "otherwise suitable candidate" cannot mean a person who holds only minimum prescribed qualification. The authority cited by Sri Khare has no

application here as in that case while making selection, the Commission adopted a procedure which was beyond the service rule made under Article 309 of the Constitution which prescribed the procedure for making recruitment.

6. It may be mentioned here that in paras 11 and 14 of the general instructions of the advertisement, it was mentioned that the decision of the Commission as to the eligibility or otherwise of a candidate will be final. The Commission took a decision to grant relaxation in age only to such candidates who possessed the higher degree of Master in Veterinary Science. It was also mentioned in para 7 of the interview letter issued to the petitioner that if he did not fulfil the required condition, his candidature can be cancelled. In view of the aforesaid decision of the Commission, we find no illegality in the order dated 21.3.1998 by which the candidature of the petitioner was cancelled.

7. The writ petition lacks merit and is hereby dismissed summarily at the admission stage.