
(2013) 05 P&H CK 0057

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No's. 19098, 20389, 20449, 20614 and 22038 of 2010

Dr. Sanjeev Puri and Others

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 07-05-2013

Acts Referred:

Citation : (2013) 4 SCT 419

Hon'ble Judges : Augustine George Masih, J

Bench : Single Bench

Advocate : G.S. Attariwala in CWP Nos. 19098, 20614 and 20449 of 2010, for the Appellant; Monica Chhibber Sharma, DAG, Punjab for the State and Mr. I.P.S. Doabia, Advocate for the Medical Council of India, for the Respondent

Judgement

Augustine George Masih, J.—By this order, I propose to dispose of Civil Writ Petition Nos. 19098, 20389, 20449, 20614 and 22038 of 2010 as in these cases common questions of fact and law are involved. Counsel for the parties have stated that these cases may be disposed of by a single order. The basic question, which requires to be considered and decided in the present writ petitions is as to whether the petitioners, who have obtained their degrees from different countries and are, thus, holding foreign degrees, are eligible to claim appointment in pursuant to the advertisement issued by the Department of Health and Family Welfare, Punjab in June 2010, wherein 214 posts of Medical Officers (General) were advertised to be filled up.

2. The educational qualifications prescribed for appointment to the posts are as follow:--

2. Educational and other Qualifications for Medical Officer (General):--

- i) M.B.B.S. Degree from an institution recognised by the Medical Council of India.
- ii) Registered with the Punjab Medical Council or with any other duly constituted Medical Council in India and
- iii) Knowledge of Punjabi Language up to

Matriculation Standard. Candidates who do not possess the qualification shall have to acquire this qualification within six months of their joining the service failing which their services shall be terminated.

3. In pursuant to this advertisement, the petitioners applied for appointment to the posts in question. The petitioners qualified the written test, which was held by the respondents. However, at the stage of interview, they were denied appointment and their candidature was not taken to be as per the requirement of the advertisement on the ground that degrees/diplomas held by the petitioners were not valid recognized degrees/diplomas and, therefore, they are not entitled to be considered for appointment to the posts. It has been asserted that the diplomas of the petitioners are medical diplomas, which can not be treated as equivalent to a Bachelor degree i.e. M.B.B.S. The petitioners approached this Court by filing their respective writ petitions, wherein directions were issued to the respondents to interview the petitioners provisionally and to keep the corresponding number of seats vacant against the categories for which the petitioners have submitted their applications.

4. Upon notice, separate replies have been filed in the writ petitions. The Medical Council of India has filed reply/affidavit, wherein it has been categorically stated that the medical diplomas as possessed by the petitioners are recognized by it as equivalent to M.B.B.S. degree, since they have passed the screening test, which is a mandatory requirement for considering a diploma/degree obtained from foreign University as equivalent to M.B.B.S. degree issued in India.

5. The official respondents in their replies have only asserted that the petitioners possessed medical diplomas, which cannot be equated with the graduation level qualification i.e. M.B.B.S. and, thus, the rejection of the candidature of the petitioners is in accordance with law.

6. I have considered the submissions made by counsel for the parties and with their assistance have gone through the record of the case.

7. It is admitted by the parties and is also apparent from the public notice for recruitment, copy whereof has been appended as Annexure P-1 with Civil Writ Petition No. 19098 of 2010, that the competent authority to declare a qualification to be equivalent is the Medical Council of India. The Medical Council of India has categorically stated in its reply that the diplomas possessed by the petitioners are equivalent to M.B.B.S. degree conferred by the Universities/ Colleges of India. Therefore, the diplomas possessed by the petitioners cannot be said to be inferior in any manner or not equivalent to the M.B.B.S. degree possessed by a candidate from India. Thus, the stand of the respondent-State can not be accepted. The writ petitions are, thus, allowed. The petitioners are declared eligible for consideration for appointment to the posts of Medical Officer (General). The result of the petitioners be declared and if they are found in merit, appointment letters be issued to them within a period of two months from the date of receipt of certified copy of the order. It goes without saying that in

case the petitioners are found to be meritorious and are issued appointment letters, the consequential benefits, which would include notional fixation of their pay and allowances as also the seniority, be conferred upon the petitioners within a further period of one month. It is, however, clarified that in case the petitioners are found to be not making the merit and can not be selected, the posts which would fall vacant, would be available to be filled up in accordance with merit from the respective categories within a period of three months.