
(2010) 04 P&H CK 0468
In the Punjab And Haryana At Chandigarh

Dr. Satpal and Another

APPELLANT

Vs

State of Haryana and Others

RESPONDENT

Date of Decision : 28-04-2010

Acts Referred:

Haryana Ayurvedic Department (Group B) Service Rules, 1989 — Rule 7

Citation : (2010) 04 P&H CK 0468

Hon'ble Judges : Ranjit Singh, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Ranjit Singh, J.—This order will dispose of three Civil Writ Petition Nos.8072 of 1991 (Dr. Satpal and Anr. v. State of Haryana and Ors.) 8266 of 1991 (Dr. Balbir Singh v. State of Haryana and Ors.) and 8664 of 1991 (Dr. Bal Kishan Sangwan v. State of Haryana and Ors.). The facts are being taken from Civil Writ Petition No. 8072 of 1991.

2. The petitioners in these petitions were working as Ayurvedic Officer. Some post of District Ayurvedic Officers were created by the Department through an executive instructions. The following qualifications were provided for the post of District Ayurvedic Officers:

i. Matric;

ii. A degree (with atleast five years regular course) in Ayurvedic system and medicine from any University/Medical Board or faculty of Indian Medicine established by law or recognised by the Government.

3. The petitioners, though were not falling in the seniority but were qualified as per the qualifications mentioned above. Accordingly, the petitioners were promoted as District Ayurvedic Officer on 3.8.1987. They continued to work as such. However, in the year 1989, new Rules were framed known as Haryana Ayurvedic Department (Group B) Service Rules, 1989. As per the amended Rules

also and especially in view of Rule 7, no person could be appointed in the service unless he was possessing the qualification and experience specified in Column 3 of Appendix B, which reads as under:

Appendix "B"

(See Rule 7)

xx xx xx xx xx

2. Ayurvedic officer/Essential Distt. Ayurvedic Officer.

i. Knowledge of Hindi upto matric standard.

ii. A degree (with five years regular course) in Ayurvedic/Unani System of Medicines from any University or institution recognised by the Government.

iii. Six years experience as Chikitsak (Physician)/Resident Physician (Ayurvedic/Unani) or eight years experience as Ayurvedic Medical Officer/Unani Medical Officer in the dispensary/Hospital run by the Government.

4. While promoting the petitioners, the Ayurvedic Officer, who were ranking senior to the petitioners were ignored because they were not having the requisite qualifications for promotion to the post of District Ayurvedic Officer. Aggrieved against this action of the Government, some of the senior officials approached this Court through Civil Writ Petition No. 5134 of 1987.

5. In the reply filed on behalf of the State, it was pointed out that essential qualification for the post of District Ayurvedic Officer is five years regular course and those candidates who did not possess five years regular course, were stated to have been rightly ignored as they did not fulfill the essential qualification meant for the post.

6. The said writ petition was admitted and was statedly pending when the present writ petitions were filed. Need to file these writ petitions arose as order reverting the petitioners was passed and private respondent Nos.2 to 5 were sought to be promoted. Accordingly, the petitioners filed the present writ petitions to challenge their reversion order and so also the promotion of respondent Nos. 2 to 5.

7. While issuing notice of motion, status-quo regarding the service of the petitioners was directed to be maintained till further furthers. Civil Writ Petition No. 5134 of 1987 was also directed to be added alongwith the record of that writ petition. The writ petitions were admitted and have now come up for hearing.

8. The State has filed reply justifying its action of reverting the petitioners. It is submitted that earlier when the petitioners were promoted, the Rules were not in existence, which were subsequently formulated in the year 1989. According to the amended Rules, the essential qualifications were prescribed, which still would not entitle the respondents for promotion but it is stated that the Rules in this regard were relaxed in case of the respondents considering their seniority.

9. The status-quo had continued during the pendency of these writ petitions.

10. Mr. R.K. Malik, learned Senior counsel appearing in Civil Writ Petition Nos.8072 and 8664 of 1991, points out that during the pendency of the writ petitions, the petitioners have since retired and have also been paid their pension and pensionary benefits. They continued to work as District Ayurvedic Officer. Mr.Malik would also point out that even the private respondents, who were subsequently promoted and have also retired. Since the petitioners as well as the private respondents have since retired, the relief claimed in the writ petition apparently need not be gone into.

11. Since the petitioners have worked on the post of District Ayurvedic Officer and have earned pension from the said post, it may not be fair to withdraw the benefits, which accrued. The benefits, which have accrued to the petitioners as well as private respondents, thus, be not withdrawn now and their pension as calculated would continue to be drawn by them accordingly.

12. Civil Writ Petition Nos.8072 and 8266 of 1991 are, thus, disposed of in the above terms.

13. So far as Civil Writ Petition No. 8664 of 1991 is concerned, petitioner, Dr.Bal Kishan Sangwan, has not been promoted. In fact, he had prayed that in case respondent No. 2 in the said writ petition is reverted, then he would have entitled to promotion as he was qualified whereas respondent No. 2 was not so qualified. The petitioner herein, thus, has retired in the rank, which he was holding and has not been promoted, no relief can now be considered and granted at this stage by directing his promotion.

14. Civil Writ Petition No. 8664 of 1991 is rendered infructuous and is accordingly dismissed.