
(1999) 03 AHC CK 0041
In the Allahabad High Court
Case No : Writ Petition No. 931 (SS) of 1994

Girja shankar Giri

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 10-03-1999

Acts Referred:

Citation : (1999) 3 AWC 2285

Hon'ble Judges : R.H. Zaidi, J

Bench : Single Bench

Judgement

R.H. Zaidi, J.—Heard learned counsel for the petitioner and learned standing counsel.

2. By means of this petition, petitioner prays for issuance of a writ, order or direction in the nature of certiorari quashing the order dated 30.12.1993 contained in Annexure-1 to the writ petition. Prayer for quashing the order dated 2.7.1992 has also been made.

3. It appears that the petitioner was appointed as Compounder (Ayurvedic) on 21.7.1975 in the pay scale of Rs. 200-320. Subsequently, pay scale was revised and fixed at Rs. 1,400-2,300 vide order dated 12.3.1992. Petitioner was receiving his salary in the above noted pay scale ; but by impugned order, petitioner's pay scale was reduced to Rs. 950-1,500 on the ground that the petitioner did not possess requisite qualification and the State Government did not grant relaxation in the qualification of the petitioner.

4. It has vehemently been urged by learned counsel for the petitioner that the petitioner was fully qualified to be appointed as Pharmacist (Ayurvedic) on the date he was appointed as Compounder (Ayurvedic). Therefore, there was no question of relaxation of qualification by the State Government. The observation made by respondent No. 3 in the impugned order to the contrary is factually incorrect. On the other hand, learned standing counsel supported the validity of impugned order, it was urged that the petitioner did not file relevant page No. 2

of Annexure-8 to the writ petition and an interim order was obtained from this Court by suppression of material facts, therefore, writ petition itself was liable to be dismissed.

5. I have considered the submission made by learned counsel for the parties and also perused the record.

6. The qualifications for appointment as Pharmacist (Ayurvedic) have been prescribed by order dated 2.7.1992, relevant clause of which is quoted below :

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1- rSukrh dh frfFk dks Hkkjr ljdkj dh fu/kkZfjr vgrkZ /kkjdxsa dks&&gkbZLdwy vFkok muds led{k A

2- fuEufyf[kr esa ls fdlh ,d esa fMxzh@fMIyksek tks fd ;wfuoflZVh LVsV cksMZ@dkmfUly ,.M QSdsYVh }kjk fn;k x;k gks A

fMxzh&&

1- vk;qosZn lhjksHkkJh

2- ** ** vkpk;Z

3- Hks"kd@fo"kkjn

fMIyksek&&

1- vk;qoZsfnd izoh.k

2- vk;qosZn izoh.k

3- Mh-,l-lh-

4- vkpk;Z

5- oS| foHkw"k.k

6- oS| ine

7- vk;ZoS/k

7. Along with the writ petition, first page of Government Order dated 2.7.1992 has been filed as Annexure-8 to the writ petition. For the purposes of present case aforesaid two pages were sufficient. The 3rd page, a copy of which has been filed along with the counter-affidavit as Annexure-CA-1, was not very relevant for the purposes of present case. The petitioner has attempted to explain as to why 3rd page was not filed along with the writ petition by filing an amendment application. Even if the explanation given by the petitioner is not accepted, it cannot be said that any material fact was suppressed, therefore, the submission made by learned standing counsel that present petition was liable to be dismissed for suppression of material fact cannot be accepted. The necessary qualifications for appointment as Pharmacist (Ayurvedic) in the pay scale of Rs.

1,350-2,200, as it is evident from the aforesaid Government Order, the relevant clause of which has been quoted above, were High School or any educational qualification equivalent to it and any one of the degrees or diploma noted above. The view taken by the respondent No. 3 in the impugned order dated 30.12.1993 is based on misreading of the aforesaid government order and is manifestly erroneous. Petitioner possessed High School Certificate as well as degree of "Bhesak" and was also registered in Bhartiya Chikitsa Board, U. P., therefore, he was fully qualified to be appointed on the aforesaid post. There was absolutely no question of relaxation of any qualification by the State Government. The observations made in the impugned order to the contrary are totally misconceived and erroneous.

8. In view of the aforesaid discussions this petition deserves to be allowed.

9. The writ petition succeeds and is allowed. The order dated 30.12.1993 is hereby quashed. The petitioner will be entitled to receive his salary in the pay scale of Rs. 1,400-2,300 with all consequential benefits. No order as to cost.