
(2021) 08 SHI CK 0028
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 3842 Of 2021

Gulshan Kumar

APPELLANT

Vs

Himachal Pradesh Staff Selection Commission And Others

RESPONDENT

Date of Decision : 04-08-2021

Acts Referred:

Citation : (2021) 08 SHI CK 0028

Hon'ble Judges : Tarlok Singh Chauhan, J; Satyen Vaidya, J

Bench : Division Bench

Advocate : Aditya Kaushal, Angrez Kapoor, Ashok Sharma, Vinod Thakur, Shiv Pal Manhans, Hemanshu Misra, J.S. Guleria, Bhupinder Thakur

Final Decision : Dismissed

Judgement

Satyen Vaidya, J

1. Petitioner has filed the instant petition seeking following substantive reliefs: -

â??(i) To quash and set aside Annexure P-9 i.e. notice for information dated 01.06.2021 qua petitioner whereby the candidature of the petitioner was kept on hold for producing registration certificate, ignoring the fact that

the same has already been submitted by the petitioner at the time of the evaluation process.

(ii) To direct the respondents to give appointment to the petitioner for the post of Medical Laboratory Technician Grade-II (post code 776) in the facts and circumstances of the case

(iii) To direct the respondents to keep Annexure P-10 dated 18.06.2021 in abeyance till the final outcome of the present writ petition and further not give appointment to any candidate as per Annexure P-10.â??

CASE OF PETITIONER:

2. The facts as alleged in the petition are that respondent No.1 issued Advertisement No.36-1/2020 on 2. 03.2020, for selection to different categories of posts. One of such post being of Medical Laboratory Technician Grade-II in the Health

and Family Welfare Department, Government of Himachal Pradesh. Total 154 numbers of posts in this category were advertised, out of which, 31 posts were for Scheduled Caste (UR) Category. Minimum qualification prescribed for the said post was as under: -

â??i) 10+2 in Science from a recognized board of School Education.

ii. B.Sc. Medical Laboratory Technology/ B.Sc. Medical Technology Laboratory/ B.Sc. Medical Technology (Laboratory)/B.Sc. Medical Laboratory Sciences/B.Sc. in Medical Laboratory Technology (Lateral) from a recognized

University or an Institution affiliated to a recognized University.

iii) Should be registered with the Himachal Pradesh Para Medical Council for the above qualification.â??

3. As per petitioner, he was having all the qualifications for the post of Medical Laboratory Technician Grade-II. Petitioner had passed his 10+2 examination in 2015. He had also passed B.Sc. in Medical Technology (Laboratory) from

Chandigarh University in May, 2018. Petitioner further claimed to have registered himself with H.P. Para Medical Council (â??Councilâ?? for brevity) on 2. 11.2020.

4. In response to above noted advertisement, petitioner applied for the post of Medical Laboratory Technician Grade-II within stipulated time period. Extended last date for submission of the application was dated 05.06.2020. Petitioner

appeared in the written examination conducted on dated 29.11.2020 under Roll No.776000349. He scored 33 marks in the written examination. On 03.03.2021, petitioner received communication from respondent No.1 informing him that he had

found place in the list of short-listed candidates for undertaking the evaluation process to be held on 12. 03.2021. Petitioner was required to bring original documents with attested copies.

5. Petitioner appeared with all requisite certificates along with registration certificate issued by respondent No.3 on the date of evaluation and submitted all the documents.

6. On dated 20.05.2021, respondent No.1 declared a list of 86 successful candidates, however, the name of petitioner was not included therein. Since certain representations were received by respondent No.1 raising issues of registration with

respondent No.1, result was kept on hold and was finally published on 18.6.2021. Total 91 candidates were declared successful. Petitioner did not find his name in the list of successful candidates. In response to his application under Right to

Information Act, he received communication dated 25.06.2021, Annexure P-11, from respondent No.3 with following remarks:

“You have failed to produce the certificates of essential qualification as prescribed in the R & P rules for the post i.e. registration with H.P. Para Medical Council valid as on the last date fixed for receipt of online

application i.e. 05.06.2020 as mentioned in the advertisement”.

CASE OF RESPONDENTS:

7. Learned Counsel for respondent No.1 at the time of hearing has reiterated the stand of said respondent as taken in letter dated 25.06.2021, Annexure P-11.

8. We have heard learned counsel for the parties and have also gone through the records of the case carefully.

ANALYSIS:

9. As per petitioner he had submitted registration certificate dated 02.11.2020 (Annexure P-2), issued by respondent No.3. This being so, question that arises for determination is whether the submission of aforesaid document on the date of evaluation was sufficient compliance with the terms of advertisement?

10. It is not the case of petitioner that he was registered with respondent No.3 before the last date of submission of online applications as provided in advertisement No.36-1/2020 dated 02.03.2020 issued by respondent No.1. His registration

with respondent No.3, undisputedly, is dated 02.11.2020.

11. At this juncture, we deem it proper to notice relevant terms of the advertisement dated 02.03.2020, which are as under: -

5.IMPORTANT INSTRUCTIONS FOR FILLING UP ONLINE APPLICATIONS:

1. to 3. xxx

4. The candidates must ensure their eligibility in respect of category, experience, age and essential qualification(s), etc., as mentioned against each post in the advertisement to avoid rejection at later stage.

5. & 6. Xxx

 xxx

xxx

7. The candidate should possess requisite essential qualification(s) prescribed for the post(s) for which he/she wants to apply as on closing date fixed for submission of Online Recruitment Applications (ORA).

11. SUBMISSION OF CERTIFICATES/ DOCUMENTS.

The download/printed copy of the Online Application Form alongwith necessary original certificates and self attested photocopies will have to be produced at the time of evaluation. No offline Application Form will be

accepted by the office.

13. ELIGIBILITY CONDITIONS: -

(i). The date of determining the eligibility of all candidates in terms of Essential Qualifications, experience etc., shall be reckoned as on the closing date for submitting the Online Recruitment Applications (ORA).

(ii) xxx

 xxx

xxx

(iii) Onus of proving that a candidate has acquired requisite degree/essential qualifications by the stipulated date is on the candidate and in the absence of proof the date as mentioned on the face of certificate/degree or the

date of issue of certificate/degree shall be taken as date of acquiring essential qualification.??

12. The essential conditions of advertisement, as noted above, leaves no room for doubt that the date of determining the eligibility of all candidates in terms of Essential Qualification, experience, was to be reckoned as on closing date for submitting the Online Recruitment Applications (ORA) i.e. 05.06.2020. Admittedly, registration with H.P. Para Medical Council was one of the prescribed minimum essential qualifications.

CONCLUSION:

13. From the above discussion, we have no hesitation to conclude that petitioner did not possess the requisite minimum qualification of registration with H.P. Para Medical Council on 05.06.2021 i.e. the last date of submission of online recruitment applications.

14. Petitioner, though, has made a cursory reference to lockdown employed in the Country in March, 2020 and his inability to visit Shimla for the purposes of registration with respondent No.3, but the same cannot be held sufficient to serve the

cause of petitioner for the reason that firstly there is no explanation as to why petitioner had not registered himself since May 2018, when he had passed his B.Sc. examination in Medical Technology (laboratory), secondly it has further not been explained, once unlock process was initiated, why petitioner did not take any step to represent his case before respondent No.1 and lastly petitioner did not submit any representation before respondent No.1, when opportunity was afforded by said respondent as evident from communication dated 01.06.2021, Annexure P-9. In such situation, petitioner cannot be held entitled to any relief in this petition.

15. It is no more res-integra that non-submission of requisite certificates by a candidate in accordance with requirement of Advertisement is sufficient ground to reject his candidature. Reference can be made to the judgment dated 08.10.2020

passed by a Co-ordinate Bench of this Court in CWP No. 4276 of 2020, titled Monika Koti vs. H.P. Public Service Commission, wherein identical proposition has been dealt with by placing reliance on the judgments passed by Honâ??ble

Apex Court in Bedanga Talukdar vs. Saifudaullah Khan and others (2011) 12 SCC 85 and Karnataka State Seeds Development Corporation Ltd. and Another vs. H.L. Kaveri and others, 2020(3) SCC 108. 6. Recently, in writ petition (C) No.

571 of 2021, titled Deepak Yadav and others vs. Union Public Service Commission and Another, the Honâ??ble Supreme Court has again reiterated the aforesaid legal position.

16. The rejection of the candidature of the petitioner by respondent No.1, thus,

cannot be faulted.

The petition is accordingly dismissed, so also the pending miscellaneous application(s), if any.