
(2019) 05 KL CK 0074

In the High Court Of Kerala

Case No : Original Petition (Kerala Administrative Tribunal) No. 210 Of 2015

Kerala Public Service Commission

APPELLANT

Vs

Joy E Blessingly

RESPONDENT

Date of Decision : 31-05-2019

Acts Referred:

Kerala State & Subordinate Service Rules, 1958 — Rule 10(a)(ii)

Citation : (2019) 05 KL CK 0074

Hon'ble Judges : V.Chitambaresh, J;Ashok Menon, J

Bench : Division Bench

Advocate : P.C.Sasidharan, N.Santha, Peter Jose Christo, S.A.Anand, Antony Mukkath, M.R.Hariraj

Final Decision : Allowed

Judgement

Chitambaresh, J

1. The qualifications prescribed for recruitment to the post of Medical Record Librarian Grade II in the Insurance Medical Service by Ext.P1 notification dated 13.1.2004 of the Kerala Public Service Commission (PSC) are as follows:

"(i) A pass in SSLC or equivalent qualification.

(ii) Successful completion of training to take care of medical records from a medical college."

The first respondent did not possess qualification (ii) mentioned (supra) though he holds a Degree of Bachelor of Medical Record Science evidenced by Ext.P3 certificate of the Tamil Nadu Dr.M.G.R.Medical University.

2. The Director of Insurance Medical Services requested the PSC to alter the qualification for the recruitment exercise since Special Rules in the Health Services Department for the post has already been amended. The PSC taking note of the request thought it fit to cancel Ext.P1 notification by Resolution No.8 dated 2.12.2005 which was done and decided to issue a fresh notification. It

appears that the Special Rules for the post in the Insurance Medical Services was amended on 24.6.2008 on the basis of which the PSC issued Ext.R1(a) notification dated 31.12.2014. The qualifications prescribed therein for the post of Medical Record Librarian Grade II in the Insurance Medical Services by the PSC are as follows:

- "(i) Bachelor's Degree in Medical Documentation from a recognised University, or
- (ii) Diploma in Medical Records Science awarded by Sree Chitra Tirunal Institute for Medical Science and Technology, Thiruvananthapuram,
- (iii) In the absence of (i) and (ii) above, candidates with Pre-Degree/Higher Secondary/Plus Two or equivalent qualification with training in Medical Records Keeping for one year from a recognised Medical College will be considered.

Note: Rule 10(a)(ii) of Part II KS&SSR is applicable."

3.The first respondent did not apply pursuant to Ext.R1(a) notification as he was reportedly over-aged and so did not find a place in Ext.R1(b) ranked list dated 20.4.2017 containing about 45 candidates. It may at once be noticed that the first respondent did not challenge Ext.R1(a) notification or Ext.R1(b) ranked list and did not also implead any of the affected parties. The vacancies notified in Ext.P1 and Ext.R1(a) notifications are respectively 1 and 2 whereas about 45 candidates are available in Ext.R1(b) ranked list to fill up the same as per communal rotation. It has not been established before us that the decision dated 2.12.2005 of the PSC to cancel Ext.P1 notification is in any way vitiated for extraneous considerations. It was done only on the request of the Director of Insurance Medical Services to be in tune with the Special Rules being amended as was done in the Health Services for the post.

4. It is not for the Kerala Administrative Tribunal to substitute the wisdom of the PSC to go ahead with the recruitment exercise after a fresh notification to be in tune with the Special Rules being amended. The Tribunal was less than fair in observing that the first respondent is having a higher qualification than the qualification prescribed in Ext.P1 notification and hence qualified.

We agree with the PSC that the first respondent though had the requisite educational qualification did not have the training experience stipulated in Ext.P1 notification for the post. More than 15 years have elapsed since the issue of Ext.P1 notification (which is superseded by Ext.R1(a) notification) and it will be unwise to resurrect the same at this juncture. The order of the Tribunal quashing the decision dated 2.12.2005 (Ext.P11) of the PSC at the instance of the first respondent in T.A.No.3444/2002 is hereby set aside.

The original petition is allowed. No costs.

APPENDIX

PETITIONER'S EXHIBITS:

ANNEXURE A1 TRUE COPY OF THE WP(C)13964 OF 2011 WITH EXHIBITS

EXHIBIT P1 TRUE COPY OF THE NOTIFICATION PUBLISHED IN KERALA GAZETTE EXTRA ORDINARY DATED 13/01/2004

EXHIBIT P2 TRUE COPY OF THE NOTIFICATION PUBLISHED IN KERALA GAZETTE EXTRA ORDINARY DATED 13/01/2014 OF THE PUBLIC SERVICE COMMISSION

EXHIBIT P3 TRUE COPY OF THE CERTIFICATE IN BACHELOR OF MEDICAL RECORD SCIENCE ISSUED TO THE PETITIONER BY THE TAMIL NADU DR.M.G.R.MEDICAL UNIVERSITY

EXHIBIT P4 TRUE COPY OF THE CERTIFICATE DATED 07.07.2004 OF THE PRINCIPAL OF DR.SOMERVELL MEMORIAL C.S.I.MEDICAL COLLEGE &HOSPITAL,KARAKONAM.P.O,THIRUVANANTHAPURAM

EXHIBIT P5 TRUE COPY OF THE LETTER NO.IDS I(3)40296/10 DATED 27/12/2010 OF THE PSC

EXHIBIT P6 TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT 2005 DATED 24/01/2011

EXHIBIT P7 TRUE COPY OF THE LETTER NO.IDS I(3)3108/11/GN DATED 21/02/2011 OF THE PSC

EXHIBIT P8 TRUE COPY OF THE APPEAL DATED 28.02.2011 FILED BY THE PETITIONER TO THE APPELLATE AUTHORITY UNDER THE RIGHT TO INFORMATION ACT,2005

EXHIBIT P9 TRUE COPY OF LETTER NO.IDS II (1)7277/2011/GW DATED 07/04/2011 OF THE APPELLATE AUTHORITY

EXHIBIT P10 TRUE COPY OF THE LETTER NO.IDS I(3)9584/11/GW DATED 07/04/2011 OF THE PSC

EXHIBIT P11 TRUE COPY OF RESOLUTION TAKEN BY THE PSC TO

ANNEXURE A2 CANCEL EXT.P1 TRUE COPY OF THE REPLY STATEMENT FILED ON BEHALF OF THE COMMISSION

ANNEXURE A3 TRUE COPY OF THE ORDER IN T.A.3444/2012 DATED 25/11/2014.

RESPONDENTS' EXHIBITS:

EXHIBIT R1 A TRUE COPY OF THE NOTIFICATION DATED 31/12/2014 FOR THE POST OF MEDICAL RECORD LIBRARIAN GRADE II ISSUED BY THE PSC.

EXHIBIT R1 B TRUE COPY OF THE RANKED LIST DATED RECORD 20/04/2017 FOR THE POST OF MEDICAL LIBRARIAN GRADE II PUBLISHED BY THE PSC.

EXHIBIT R1 C TRUE COPY OF THE LETTER NO.IDS I(2) 5600/2016/GW DATED 11/07/2016 OF THE STATE INFORMATION OFFICER, PSC.

EXHIBIT R1 D TRUE COPY OF THE APPLICATION DATED H. TO 20/06/2016
SUBMITTED BY SRI. ANAND THE STATE PUBLIC INFORMATION OFFICER, PSC.