
(2008) 12 P&H CK 0086
In the Punjab And Haryana At Chandigarh

Mohd. Sahid Junaid and Another	Vs	APPELLANT
State of Haryana and Others		RESPONDENT

Date of Decision : 24-12-2008

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 153 PLR 479

Hon'ble Judges : Mehtab S. Gill, J;K. Kannan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

K. Kannan, J.—The selection criteria for the appointment to the post of Unani Dispenser is challenged at the instance of two unsuccessful candidates on the ground that the fourth respondent who was selected did not have the requisite qualification.

2. The advertisement issued by the Haryana State Selection Commission through advertisement No. 2 of 2006 published on 8.2.2006 set down the following criteria for the post of Unani Dispenser:

i) Unani Dispenser from any recognized University/Institution or board or Faculty of Indian System of Medicines established by law in India or Up-Vaidya of any recognized University/Institutions or board or Faculty of Indian System of Medicine established by law in India having the knowledge of Urdu.

ii) Matric or its equivalent.

iii) Knowledge of Hindi or English upto Matric standard.

3. The contention of the petitioners is that the fourth respondent has qualified in Up-Vaidya from a recognized University but is not known to have qualified through any examination that imparted knowledge of Urdu. The petitioners contention is that the prescription for Unani system of examination will be drawn up in Urdu and the fourth respondent who has no knowledge in the said

language could not have been appointed to the post.

4. The statement has been filed both by the State as well as the Secretary of the Haryana Staff Selection Commission (third respondent). The State has filed a written statement contended that the fourth respondent has knowledge of Urdu and his selection was therefore appropriate. The third respondent has also asserted that the fourth respondent has knowledge of Urdu. The counsel appearing for them point out that one of the of the criteria is merely a knowledge of Urdu and no formal degree or certificate was required as per the eligibility considerations set out through the advertisement. The respondents further contends that the petitioner Nos. 1 and 2 had obtained 38.21 and 39.36 marks respectively against 44.58 marks of the last selected candidates in general category and hence, the petitioners were not in the zone of consideration at all to challenge the selection made of the fourth respondent.

5. The petitioners' objection that the respondents did not have any degree or certificate for proof of knowledge of Urdu must be seen in the context of a simple requirement under advertisement for knowledge of Urdu alone. The petitioners contend that there must be some objective material for the respondents to contend that the selected candidate had knowledge of Urdu. The respondents asserted that the fourth respondent had such requisite knowledge and they had verified the same at the time of interview. A matter which is so essentially a dispute of question of fact cannot be decided by us our jurisdiction under Article 226 of the Constitution of India. Further, the objection on behalf of the respondent that the petitioners are not even in the zone of consideration to require a revolving inquiry about the extent of knowledge of the fourth respondent seems to be well founded. Under the circumstances, we do not think that this is a fit case where we could exercise our jurisdiction to assail the selection process that has been made through the third respondent and that has resulted in the appointment of the fourth respondent. The petitioners are at liberty to establish the disputed question of facts in any other appropriate forum.

6. The writ petition is accordingly dismissed.