
(2016) 02 AHC CK 0113
In the Allahabad High Court
Case No : Writ - A No. 58058 of 2015

Neelam Singh and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 15-02-2016

Acts Referred:

Citation : (2016) 02 AHC CK 0113

Hon'ble Judges : B. Amit Sthalekar, J.

Bench : Single Bench

Advocate : Raj Mani Yadav and Ashok Khare, for the Appellant; C.S.C., K.S. Kushwaha, Kailash Singh Kushwaha, M.A. Ausaf, Mahendra Pratap, Mohammad Ali Ausaf, Prateek Chandra and Pratik Chandra, for the Respondent

Final Decision : Dismissed

Judgement

B. Amit Sthalekar, J.—1. The petitioners who are 226 in number are seeking a direction to the respondents to permit them to appear in the recruitment for the post of Homeopathy Pharmacist under the advertisement No. 14 Recruitment/2015 after ignoring the fact that the petitioners have not passed their final examination prior to 7.10.2015. The second relief claimed in the writ petition is for restraining the consideration of 200 candidates shown to have passed their Diploma in Homeopathy Pharmacy from the Institute of Para Medical, Lucknow during the academic session 2011-12.

2. Briefly stated the case of the petitioners is that the petitioners Samta Dube and Neelam Singh had been granted admission in Acharya Chanakya Mahavidyalaya, Semri District Sultanpur for pursuing their studies in the final year of two years Diploma course in Homeopathy. So far as the other petitioners are concerned, it is stated that they have been granted admission to 2 years Diploma course in the academic session 2013-14 on the basis of a combined entrance examination conducted by the Homeopathic Medicine Board, Lucknow (hereinafter referred to as the Board only) held in January, 2014. In paragraph 13 of the writ petition it is stated that all the petitioners have completed first

year of Diploma course and are pursuing their studies in the second year Diploma course. In paragraph 14 of the writ petition it is stated that at the end of the first year Diploma course the petitioners were required to appear in an examination which they have all cleared and are now in the second year Diploma course in the final examination likely to be completed by December, 2015.

3. It is stated that an advertisement No. 14 Recruitment/2015 was issued by the U.P. Subordinate Service Selection Commission, Lucknow in the Dainik Jagran dated 4.9.2015. One of the posts at item No. 8 of the advertisement is the post of Homeopathy Pharmacist. 634 posts have been advertised and the qualification/eligibility criteria is given as Intermediate Certificate Examination, two years Diploma in Homeopathy Pharmacy and registration with the Homeopathy Medicine Board, U.P. Lucknow. The last date of submission of the application forms as per the advertisement is 7.10.2015. The claim of the petitioner is that this examination is being held after almost 13 years as the last selection for the post of Homeopathy Pharmacist was held in 2003. The case of the petitioner further is that although the permissible age limit for the post of Homeopathy Pharmacist is shown to be 21 to 40 years but for the remaining posts it is shown to be 18 to 40 years. In paragraph 25 of the writ petition it is also alleged that about 383 candidates who are registered with the Board have passed Diploma in pharmacy course from the Institute of Para Medical, Matiyari, Chinhath Lucknow in December, 2014 out of which 200 candidates have passed Diploma in Pharmacy and are shown to have passed this course in December, 2014 and are shown to have been admitted in sessions 2011-12 and 2012-13 with 100 students shown to have been admitted in each academic session. It is also alleged that 200 of these candidates were permitted to appear in the first year examination of the Diploma course in November, 2014 result of which was declared on 2.12.2014 and they were allowed to appear in the second year examination of the Diploma in Homeopathy Pharmacy in December, 2014 result of which has been declared on 19.12.2014. It is also stated that with regard to these conditions two writ petitions, namely, W.P. No. 1904(M/S) of 2014 (Maya Kushwaha v. State of U.P. and others) and W.P. No. 3447(M/S) of 2014 (Satya Prakash Maurya v. State of U.P. and others) were filed with the prayer for a direction to the Board for holding examination and the said writ petitions were disposed of with a direction that the matter may be represented before the State Government and thereafter Government Order was issued on 28.7.2014 directing the Board to hold the examination for these students but it is alleged that none of these students appeared in the entrance examination.

4. A counter affidavit has been filed on behalf of the respondent No. 4-Principal of Institute Para Medicals, Lucknow, a short counter affidavit as well as counter affidavit has been filed on behalf of the respondent No. 3-Homeopathic Medicine Board, U.P. Lucknow and a counter affidavit has been filed on behalf of the respondents No. 5 and 6.

5. In the short counter affidavit filed by the Board it is admitted that the total

posts advertised were 634 and the total number of persons registered with the Board were 383 and it is also stated that in such a situation a large number of posts will remain vacant even if all the registered Pharmacists are given appointment. With regard to the 200 candidates who have passed the Diploma course in Pharmacy from the Institute of Para Medicals, Lucknow it is stated that the examination for them was held in view of the State Government Order dated 28.7.2014. It is not in dispute that this Government Order was challenged by the Board in Writ Petition No. 4433 of 2014 which was dismissed by judgment and order dated 11.9.2014 and the Special Appeal (D) No. 616 of 2014 filed by the Board was also dismissed by judgment dated 16.10.2014 and the Board is therefore only following the directions given by the High Court.

6. In the counter affidavit filed by the Board it is stated that for the post of Pharmacist a candidate must be:

"(i) Intermediate passed with Maths or Zoology or any equivalent examination recognized by the State Government;

(ii) he must possess two years Homeopathic diploma from an Institution recognized by the State Government; and

(iii) he must have three months of compulsory internship as Homeopathic Pharmacist from an Institution recognized by the State Government.

(iv) the candidate must be registered with the Homeopathic Board."

7. So far as the two petitioners Samta Dube and Neelam Singh are concerned, it is stated that on their own admission they are still pursuing the second year diploma course at Sultanpur and all the petitioners claim is that they are admittedly pursuing the second year diploma course in Homeopathy which means that they do not possess the minimum qualification for appearing in the selection for the post of Homeopathic Pharmacist. It is further stated that even after passing the two years" Diploma course three months compulsory internship is mandatory and the candidate must also be registered with the Homeopathic Medical Board of Uttar Pradesh. As regard the allegation regarding the 200 candidates for whom the Board held the two years" Diploma Course examination it is stated that the same was done in pursuance of the State Government Order dated 28.7.2014 which was challenged by the Board before the learned Single Judge as well as before the Division Bench and the writ petition was also dismissed and the special appeal was also dismissed by the Lucknow Bench of the Allahabad High Court and therefore the matter having become final, it is not open for the petitioners to raise that issue again in this petition.

8. In the counter affidavit filed on behalf of the respondent No. 4, Institute of Para Medicals, the stand of the respondents is the same, namely, that the petitioners Neelam Singh and Samta Dubey have not completed their two years Diploma in Homeopathic Pharmacy Course and therefore they have been restrained from taking examination but after the Resolution dated 19.3.2013

they were again allowed admission in the Acharya Charak Mahavidhyala, Semari, Sultanpur but they have not completed their two years" Diploma Course in the Homeopathic Pharmacy by the cut off date of 7.10.2015, therefore, they are not eligible to apply against the impugned Advertisement. It is also stated that for the first time in view of the G.O. dated 27.6.2011 the State Government granted permission and recognition to the respondent- Institute to take admission for the session 2011-12 for 100 students and therefore the Institute has taken admission of 100 students in 2011-12 and 100 students in 2012-13 and they have also completed their two years diploma in Homeopathic Pharmacy Course. Thereafter by G.O. dated 9.10.2013 and 30.10.2013 the Registrar, U.P. Homeopathic Medicine Board was directed to conduct the examination of the students who have completed their two years" diploma course in Homeopathic Pharmacy but instead of that no examination was held and the Chairman of the Board made a complaint to the State Government on 10.10.2013 which was rejected by the State Government and by the order dated 30.10.2013 directed the Board to conduct the examination.

9. It was stated that one Maya Kushwaha a student filed Writ Petition No. 1904 (M/S) 2014 (Maya Kushwaha v. State of U.P. and others in which the High Court Lucknow Bench directed the Principal Secretary, Medical Education to look into the matter and take necessary action and the writ petition was disposed of. Another writ petition was filed by one Satya Prakash Maurya a student being Writ Petition No. 3447 (M/S) of 2014 which was also disposed of by the High Court with a direction to the Principal Secretary, Medical Education Lucknow to take necessary action within two weeks regarding holding examination of the students. Thereafter Government Order dated 28.7.2014 was issued directing the Board to conduct the examination of the students for the session 2011-12 but instead of holding examination the Board challenged the validity of the Government Order in the High Court. The writ petition was dismissed and the Special Appeal was also dismissed. Thereafter a letter was written by one Dr. Amanatulla, Chairman of the U.P. Homeopathic Medicine Board, Lucknow vide his letter dated 17.10.2014 directing the holding of examination of the said 200 students.

10. A counter affidavit has been filed on behalf of the respondent No. 5 and 6. In para-4 of the counter affidavit it is state that there is a society known as Baba Educational Society which runs an Institution known as Institute of Para Medicals, 56 Matiyari (Deva Road), Chinhat, Lucknow. This Institution imparts two years" Diploma Course in Pharmacy in Homoeopathy and the Institution was granted recognition by the State Government by the order dated 27.6.2011 with an intake of 100 students for the Academic Session 2011-12.

11. It is also stated that although the Homeopathic Medicine Board, respondent No. 3 framed a Regulation for regulating the eligibility criteria for admission in the Course as well as the mode of admission and manner of examination but the said Regulation was never notified in the Official Gazette and therefore it was

rendered ineffective and accordingly admission was granted to the students for the Academic Session 2011-12 and 2012-13 by the Institute according to its own norms. The candidates completed the first year course but the Board failed to hold the first year examination. It is also stated that students were not permitted for further study in the second year course. The State Government thereafter by its order dated 9.10.2013 directed the Board to conduct the examinations as well as to ensure further study of the students for the academic session 2012-13. Another letter was issued by the State Government on 30.10.2013. When the Board failed to conduct any examination some of the candidates approached the High Court through Writ Petition No. 1904 (M/S) of 2014 and Writ Petition No. 3447 (M/S) of 2014, which were disposed of by the Lucknow Bench of the High Court by order dated 15.5.2014 and 4.7.2014 directing the Principal Secretary, Medical Education to look into the matter. The State Government thereafter issued G.O. dated 28.7.2014 directing the Board to hold the examination without any further delay. This Government Order was challenged by the Board in Writ Petition No. 4433 of 2014 which was dismissed by the High Court by judgment dated 11.9.2014, which was challenged in Special Appeal (Defective) No. 616 of 2014 which was also dismissed by an order dated 16.10.2014. It is only thereafter that the Board proceeded to hold examination and Admits Cards were issued to the candidates for appearing in the first year examination as well as the second year examination and thereafter the result was also declared.

12. The stand of the respondents No. 5 and 6 further is that as per the qualification prescribed in Item No. 8 of the impugned Advertisement the candidates were required to register with the Board. It is stated that the petitioners on their own admission in paragraphs 13 and 14 of the writ petition were still pursuing the Homeopathic Course and, therefore, they were not registered with the Homeopathic Medicine Board and were not eligible to apply against the said Advertisement.

13. The submission of Sri Ashok Khare, learned Senior Counsel on behalf of the petitioners is that no selections were held for almost 13 years and that the Entrance Exam for the first year course as well as the second year course were both held in 2014 and therefore the respondents cannot be said to have completed two years' Diploma Course in Homeopathic Pharmacy. He further submits that 634 posts of Homeopathic Pharmacists had been advertised whereas only 383 candidates as on date were registered with the Homeopathic Medicine Board including 200 candidates who are stated to have passed the two years' diploma course in Homeopathic Pharmacy from the Institute of Para Medical, Lucknow and therefore a large number of posts would still be left vacant. He however did not dispute that petitioners were not registered with the Homeopathic Medicine Board but submitted that relaxation could be granted to the petitioners and they be held to be eligible to apply against the posts of Homeopathic Pharmacists. It was also contended that although the High Court had dismissed the writ petition filed by the Board being Misc. Writ Petition No. 4433 of 2014 but the Division Bench while dismissing the Special Appeal

(Defective) No. 616 of 2014 had observed that if the Board is unaware of the fact, as to in what way and manner students have been imparted instructions, it could always satisfy itself by calling for the records and make a spot inspection on the said score. It is submitted that this direction of the High Court was never complied with by Board and therefore it was not clear as to what was the nature of the instruction imparted by Institute of Para Medical in the course of Homeopathic Medicine.

14. The facts which are on record however shows that the petitioners had not completed their course of Homeopathy as on the last date of submission of the application form i.e. on 7.10.2015 and that they were not registered with the Board. It is not disputed that the private respondents were pursuing a two year diploma course in Homeopathy in the Institute of Para Medical, Lucknow for the year 2011-12 and 2012-13 and that their examinations were held late only in 2014. The filing of the writ petitions by Maya Kushwaha and Satyaprakash Maurya is also not disputed nor the dismissal of the Writ Petition No. 4433 of 2014 or dismissal of the Special Appeal 616 (D) of 2014. The submission of the learned counsel for the petitioner that the High Court had directed the Board to approach the State Government to clear its doubt with regard to the nature of the instruction imparted in the Institute of Para Medical is not correct. In fact when after several implorations by the Institute to be permitted to hold the examination, when no examinations were being held, the State Government had to intervene in the matter and issue Government Orders dated 9.10.2013 and 30.10.2013 and when these orders were not complied with the State Government issued a G.O. dated 28.7.2014 directing the Board to hold the examination without any further delay. This G.O. was challenged by the Board before the Lucknow Bench of the High Court in Misc Writ Petition No. 4433 of 2014, which was dismissed by the learned Single Judge observing that there is no Regulation which prohibits direct admission and that the State Government was fully competent and justified in directing the Board to hold examination for the students of the respondent Institute. These arrangements have been made for Session 2011-12 and 2012-13 in the extraordinary circumstances and therefore no exception can be taken to the mode adopted by the State Government.

15. Para 32 of the said judgment reads as under:--

"32. From the above, it is manifest that there is no regulation which prohibits direct admission. There is nothing under the Act making any such proscription. State Government was fully competent and justified in directing the petitioner's Board to hold examination of the students of respondent Institute. As mentioned above, this arrangement has been made only for session 2011-12 to 2012-13, in extraordinary circumstances, as such no exception can be taken to the mode adopted by the State Government. Order of State Government is perfect and is fully justified and same does not require any interference by this Court."

16. The Judgment of the learned Single Judge dated 11.9.2014 stood confirmed

when the Special Appeal 616(D) of 2014 filed by the Homeopathic Medicine Board was dismissed by judgment dated 16.10.2014. The Division Bench never gave any direction to the Homeopathic Board to satisfy itself with regard to the way and manner in which students have been imparted instructions. It was only a liberty granted to the Board but order of the Division Bench was loud and clear that the directions of the State Government could not be ignored.

17. Operative portion of the judgment reads as under:--

"Much emphasis has been lastly laid on the fact that appellants-petitioner Board is unaware of the fact, as to in what way and manner students have been imparted instructions qua whom steps are to be undertaken. The Board can always satisfy itself by calling for the records and by making spot inspection on the said score but the same cannot be a ground ignore the directives of the State Government and in case Board has any grievance it is always open for the Board to approach the State Government.

Lastly complaint has been made on behalf of Respondent-institute, that there is no resolution of Board, authorizing its Chairman Amanatullah to go in for challenge, against the order of State Government and his entire action is singular and unilateral. This aspect of the matter, on issue being raised, can also be examined by State Government and remedied by the State Government.

Consequently, present Special Appeal is dismissed."

18. Thus it will be seen that it is only under the directions of the State Government and the High Court that the Institute of Para Medical held the examination in the course of Homeopathic Pharmacy for the first year and second year for the private respondents for the session 2011-12 and 2012-13, therefore, the validity of the action of the respondents holding the selection of the private respondents can not be questioned in the present proceedings.

19. Admittedly, the petitioners are not registered with the Board which is one of the essential conditions of the eligibility required by a candidate to appear in the selection for the post of Pharmacist and therefore the absence of this requisite eligibility condition in the petitioners cannot be overlooked by this Court nor can any direction be given to the State Government to relax the requisite condition simply because the petitioners were pursuing the second year course of Pharmacy till the year end 2015. It is not only a question of completing the two year diploma course of Pharmacy which is necessary but three months of internship thereafter is also necessary. All these eligibility criteria were required to be possessed by a candidate by the last date for submission of the application forms i.e. by 7.10.2015. The petitioners were not in possession of the said criteria as on 7.10.2015 as per the averments made in paragraphs 13 and 14 of the writ petition that they were still pursuing second year diploma course and the final examination were likely to be completed by December, 2015. Therefore, it must necessarily be held that the petitioners did not possess the eligibility qualification or criteria on the last date of submission of the application form for

being allowed to participate in the advertisement No. 14 Recruitment/2015 for the post of Pharmacist.

20. The Supreme Court in the case of Rakesh Kumar Sharma v. State (NCT of Delhi) and others reported in , (2013) 11 SCC 58 has held that eligibility has to be examined on the last date of submission of application form. Paragraphs 11 to 21 of the said judgment read as under:

"11. There can be no dispute to the settled legal proposition that the selection process commences on the date when applications are invited. Any person eligible on the last date of submission of the application has a right to be considered against the said vacancy provided he fulfills the requisite qualification.

12. In U.P. Public Service Commission, U.P., Allahabad & Anr. v. Alpna, , (1994) 2 SCC 723, this Court, after considering a large number of its earlier judgments, held that eligibility conditions should be examined as on last date for receipt of applications by the Commission. That too was a case where the result of a candidate was declared subsequent to the last date of submission of the applications. This Court held that as the result does not relate back to the date of examination and eligibility of the candidate is to be considered on the last date of submission of applications, therefore, a candidate, whose result has not been declared upto the last date of submission of applications, would not be eligible.

13. A three Judge Bench of this Court, in Dr. M.V. Nair v. Union of India & Ors. , (1993) 2 SCC 429, held as under:--

"9..... It is well settled that suitability and eligibility have to be considered with reference to the last date for receiving the applications, unless, of course, the notification calling for applications itself specifies such a date."

(Emphasis supplied)

14. In Harpal Kaur Chahal v. Director, Punjab Instructions, Punjab & Anr. 1995 (Suppl) 4 SCC 706, this Court held:

"2.It is to be seen that when the recruitment is sought to be made, the last date has been fixed for receipt of the applications, such of those candidates, who possessed of all the qualifications as on that date, alone are eligible to apply for and to be considered for recruitment according to the Rules."

(Emphasis supplied)

15. This Court in Rekha Chaturvedi v. University of Rajasthan , 1993 Supp (3) SCC 168 held:

"10. The contention that the required qualifications of the candidates should be examined with reference to the date of selection and not with reference to the last date for making applications has only to be stated to be rejected. The date of selection is invariably uncertain. In the absence of knowledge of such date the candidates who apply for the posts would be unable to state whether they are

qualified for the posts in question or not, if they are yet to acquire the qualifications. Unless the advertisement mentions a fixed date with reference to which the qualifications are to be judged, whether the said date is of selection or otherwise, it would not be possible for the candidates who do not possess the requisite qualifications in praesenti even to make applications for the posts. The uncertainty of the date may also lead to a contrary consequence, viz., even those candidates who do not have the qualifications in praesenti and are likely to acquire them at an uncertain future date, may apply for the posts thus swelling the number of applications. But a still worse consequence may follow, in that it may leave open a scope for malpractices. The date of selection may be so fixed or manipulated as to entertain some applicants and reject others, arbitrarily. Hence, in the absence of a fixed date indicated in the advertisement/notification inviting applications with reference to which the requisite qualifications should be judged, the only certain date for the scrutiny of the qualifications will be the last date for making the applications. Reference in this connection may also be made to two recent decisions of this Court in *A.P. Public Service Commission v. B. Sarat Chandra*, (1990) 2 SCC 669; and *District Collector and Chairman, Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi*, (1990) 3 SCC 655."

(Emphasis supplied)

16. In *Ashok Kumar Sharma v. Chander Shekhar*, 1993 Supp (2) SCC 611 [hereinafter referred to as *Ashok Kumar* (1993)], the majority view was as under:

"15. The fact is that the appellants did pass the examination and were fully qualified for being selected prior to the date of interview. By allowing the appellants to sit for the interview and by their selection on the basis of their comparative merits, the recruiting authority was able to get the best talents available. It was certainly in the public interest that the interview was made as broad based as was possible on the basis of qualification. The reasoning of the learned Single Judge was thus based on sound principle with reference to comparatively superior merits. It was in the public interest that better candidates who were fully qualified on the dates of selection were not rejected, notwithstanding that the results of the examination in which they had appeared had been delayed for no fault of theirs. The appellants were fully qualified on the dates of the interview and taking into account the generally followed principle of Rule 37 in the State of Jammu & Kashmir, we are of opinion that the technical view adopted by the learned Judges of the Division Bench was incorrect".

(Emphasis supplied)

However, the opinion of Justice R.M. Sahai J had been that these 33 persons could not have been allowed to appear for the interview as they did not possess the requisite eligibility/qualification on the last date of submission of applications.

17. A three-Judge Bench of this Court in *Ashok Kumar Sharma v. Chander Shekhar*, (1997) 4 SCC 18 reconsidered and explained the judgment of *Ashok*

Kumar Sharma (1993) (supra) observing:

"The proposition that where applications are called for prescribing a particular date as the last date for filing the applications, the eligibility of the candidates shall have to be judged with reference to that date and that date alone, is a well-established one. A person who acquires the prescribed qualification subsequent to such prescribed date cannot be considered at all. An advertisement or notification issued/published calling for applications constitutes a representation to the public and the authority issuing it is bound by such representation. It cannot act contrary to it. One reason behind this proposition is that if it were known that persons who obtained the qualifications after the prescribed date but before the date of interview would be allowed to appear for the interview, other similarly placed persons could also have applied. Just because some of the persons had applied notwithstanding that they had not acquired the prescribed qualifications by the prescribed date, they could not have been treated on a preferential basis. Their applications ought to have been rejected at the inception itself. This proposition is indisputable and in fact was not doubted or disputed in the majority judgment."

(Emphasis added)

The Court further explained that the majority view in Ashok Kumar Sharma (1993) (supra) was not correct, rather the dissenting view by R.M. Sahai J was correct as the Court held as under:

"6. The reasoning in the majority opinion that by allowing the 33 respondents to appear for the interview, the recruiting authority was able to get the best talent available and that such course was in furtherance of public interest is, with respect, an impermissible justification. It is, in our considered opinion, a clear error of law and an error apparent on the face of the record. In our opinion, R.M. Sahai, J. (and the Division Bench of the High Court) was right in holding that the 33 respondents could not have been allowed to appear for the interview."

(Emphasis added)

18. It may also be pertinent to mention here that in the aforesaid case reference to Rekha Chaturvedi (supra) appears to have been made by a typographical error as the said judgment is by a two-Judge Bench of this Court. Infact the court wanted to make a reference to the case of Ashok Kumar Sharma (1993) (supra).

19. In Bhupinderpal Singh v. State of Punjab, , AIR 2000 SC 2011, this Court placing reliance on various earlier judgments of this Court held:

"13..... The High Court has held (i) that the cut-off date by reference to which the eligibility requirement must be satisfied by the candidate seeking a public employment is the date appointed by the relevant service rules and if there be no cut-off date appointed by the rules then such date as may be appointed for the purpose in the advertisement calling for applications; (ii) that if there be no such date appointed then the eligibility criteria shall be applied by reference to

the last date appointed by which the applications have to be received by the competent authority. The view taken by the High Court is supported by several decisions of this Court and is therefore well settled and hence cannot be found fault with."

(Emphasis supplied)

20. This Court lately in *State of Gujarat v. Arvindkumar T. Tiwari*, , AIR 2012 SC 3281 held:

"14. A person who does not possess the requisite qualification cannot even apply for recruitment for the reason that his appointment would be contrary to the statutory rules, and would therefore, be void in law. Lacking eligibility for the post cannot be cured at any stage and appointing such a person would amount to serious illegality and not mere irregularity. Such a person cannot approach the court for any relief for the reason that he does not have a right which can be enforced through court. (See *Prit Singh v. S.K. Mangal* , 1993 Supp (1) SCC 714 and *Pramod Kumar v. U.P. Secondary Education Services Commission* , (2008) 7 SCC 153.)"

(Emphasis supplied)

A similar view has been re-iterated by this Court in *Pramod Kumar v. U.P. Secondary Education Services Commission* , (2008) 7 SCC 153; and *State of Orissa v. Mamta Mohanty* , (2011) 3 SCC 436.

21. In the instant case, the appellant did not possess the requisite qualification on the last date of submission of the application though he applied representing that he possessed the same. The letter of offer of appointment was issued to him which was provisional and conditional subject to the verification of educational qualification, i.e., eligibility, character verification etc. Clause 11 of the letter of offer of appointment dated 23.2.2009 made it clear that in case character is not certified or he did not possess the qualification, the services will be terminated. The legal proposition that emerges from the settled position of law as enumerated above is that the result of the examination does not relate back to the date of examination. A person would possess qualification only on the date of declaration of the result. Thus, in view of the above, no exception can be taken to the judgment of the High Court."

21. For the aforesaid reasons, writ petition lacks merit and is accordingly dismissed.