

(2011) 01 SHI CK 0056
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 8998 of 2008

Shashi Kant and Others

APPELLANT

Vs

The State of H.P. and Others

RESPONDENT

Date of Decision : 04-01-2011

Acts Referred:

Citation : (2011) 01 SHI CK 0056

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Judgement

V.K. Sharma, J.—The Petitioners are ex-servicemen. For the purpose of civil service they were registered with Respondent No. 3. Consequently, their names were sponsored for training as Ayurvedic Pharmacists. However, since they were not detailed for the said training, the petition has been filed on the following prayer vide para 7(i):

7(i) That the Respondents may kindly be directed to issue appointment letter to the applicant as their names have been nominated by Respondent No. 3 to Respondent No. 2 vide letter dated 9.11.1998, for the posts of Ayurveda Pharmacists Training Course reserved for ex-servicemen in the Himachal Pradesh.

2. In reply, on behalf of Respondents No. 1 and 2, the following stand has been taken by way of preliminary submissions and paras 6(v) and (xi) on merits:

The department issued a notification for 150 posts of Ayurvedic Pharmacists training course to be started at Jogindernagar in the month of March 1999. The interviews were also conducted for this in the year 1999. The names of the ex-servicemen were asked from the Ex Servicemen cell Hamirpur, who sponsored the names accordingly. Time and again the concerned cell was informed that the said training has not been started for which names were asked for. Near about 31,500 candidates appeared for personal interviews, therefore the Govt. decided to impart the training to six hundred candidates at 4 centres at Jogindernagar, Paprola, Chamba and Hamirpur with a view to meet the demand in the public/

private sectors in the future and also to promote avenues for self employment. This decision was challenged in the Hon''ble High Court by some Petitioners and the Deptt. decided to start the training procedure afresh. The written test for this was held in the month of Nov. 2002. Some of the Petitioners again challenged this process on the fact that (I) sufficient time has not been given for submitting the application forms (ii) there is no proper infrastructure available at rest of the new centres at Paprola, Chamba and Hamirpur. The Hon''ble High Court had restrained the Deptt from declaring the written test examinations conducted for Ayurvedic Pharmacist training course on 10.11.2002 as Rekhadevi v. State of HP. CWP No. 1688/02 The said training has not been started keeping in view the matter pending in the Hon''ble High court, therefore this OA is not maintainable and may be dismissed in the interest of justice.

6(v)It is correct that the names of two of the applicants were earlier nominated by the Director Sainik Welfare Hamirpur for the post of Ayurvedic Pharmacist training course reserved for Ex servicemen in HP vide letter dated 12th of August 1998. since the training under reference has not started even till today, therefore, no action has been taken on this by the replying Respondent. Earlier letter was withdrawn because the training process was started afresh in the year 2002.

6(xi)The replying Respondent vide its letters dated 10-9-2002 and 13-1-03 has informed the Respondent No. 3 that the training process which was started earlier in the year 99-2000 has been cancelled and the list submitted by the cell also stand cancelled. The Respondent No. 3 is at liberty to sponsor the names of ex servicemen to the other departments whose names have been sponsored earlier for the training course of Ayurvedic Pharmacists.

3. In view of the above, since the training programme for Ayurvedic Pharmacists could not commence and the Petitioners were not at fault for the same, the petition is disposed of with a direction to Respondent No. 3 to restore the names of the Petitioners for civil employment on the strength of their status as ex-servicemen against their seniority in the relevant year and to sponsor their names for training as Ayurvedic Pharmacists or any other suitable civil employment for which they may be eligible and to Respondents No. 1 and 2 to consider the names of the Petitioners for training as Ayurvedic Pharmacists in the first available batch for such training henceforth or any other suitable civil employment keeping in view their eligibility, within three month from the date of production of copy of this judgment by the Petitioners to the respective Respondents.

4. It is made clear that since the process for "Nomination of Ex-servicemen/ Dependants against the Posts of Ayurveda Pharmacist Training Course reserved for Ex-servicemen in Himachal Pradesh" was initiated vide letter dated 9.11.1998, Annexue A-1, but could not be brought to the logical conclusion, compelling the Petitioners to file the original application (O.A.) before the erstwhile H.P. State Administrative Tribunal (since abolished) as far back as

26.12.2002 and since then they have been pursuing the same earlier before the said Tribunal and now before this Court, the Respondent may consider grant of relaxation in upper age limit for civil employment meant for ex-servicemen in favour of the Petitioners, in case they or any one of them has not already attained the age of superannuation meant for the purpose of retirement.

5. In view of the above, the petition stands disposed of, so also pending CMP(s), if any.