

*** IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) No. 5294/2007 & CM No. 9823/2007

% Judgment reserved on: 18th December, 2012
Judgment delivered on: 1st April, 2013

PREAM CHAND Petitioner
Through: Mr.R.P.S. Sirohi and Mr.Rajendra
Singh, Advocates.

Versus

GOVT. OF N.C.T. OF DELHI & ANR. Respondents
Through: Ms. Sonia Sharma, Advocate for
Respondent No.1.
Mrs.Zubeda Begum and Ms. Sana
Ansari, Advocates for Respondent
No.2.

CORAM:
HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J.

W.P.(C) No. 5294/2007

1. The present petition is directed against the impugned order dated 22.06.2007 issued by the respondents for cancelling the candidature of the petitioner for the post of Laboratory Technician Group-III. The same is reproduced as under:-

“ The Board advertised vacancies for the post of Laboratory Technician Group-III Post Code -073/06 in leading newspapers with closing date of applications being 15.11.2006.

Recruitment Rules for the said post were as under:-

1. *B.Sc. Desirable with one year experience as Lab. Asstt. in any of these groups of Laboratories.*

OR

1. *Matriculation/Hr. Secondary/10+2 with Science 6 years experience in any of these groups of Laboratories as Lab. Assistant*

OR

1. *Matriculation/Hr. Secondary/10+2 with Science having MLT course with 3 years experience in any of these groups of Laboratories as Lab. Assistant.*

On Perusal of the documents submitted by you, it has been found that you are ineligible for the post on account of the following:-

Done DMLT of 01 years instead of 02 or 03 year.

Your candidature for the said post has therefore, been cancelled.”

2. Case of the petitioner is that he passed High School Examination in the year 1993 and 10+2 in the year 1995 with English Core, Mathematics, Physics, Chemistry and Biology subjects. He also successfully completed one year Medical Laboratory Technology (MLT) Course from Safdarjung Hospital, New Delhi vide certificate bearing No.1795 dated 13.06.2002 issued by the Principal and Medical Superintendent of Safdarjung Hospital, New Delhi. Copy of the same is annexed herewith as Annexure P-7. He worked as Lab Technician w.e.f. 13.11.2000 onwards in Balaji Diagnostic Centre, Khera Khurd, Delhi. To this effect, a certificate bearing No.07/2006 dated 01.03.2006 had been issued by the Managing Director of the

aforesaid Centre, copy of which is annexed to this petition as Annexure P-8.

3. On 14.10.2006, the respondents had published an advertisement in Hindustan Times inviting applications from eligible candidates for recruitment to various posts in the Health & Family Welfare Department and Directorate of Social Welfare of Govt. of NCT of Delhi. The eligibility criteria mentioned in the said advertisement is as under:-

<i>Post code</i>	<i>Name of Post, No. of Vacancies, Educational Qualifications, Pay Scale and Age</i>
073/06	<i>Laboratory Technician Group-III- 51 (UR-25, OBC-14, SC-08 & ST-04), Essential Qualifications:- (1) B.Sc. Desirable with one year experience as Lab. Asstt. In any of these groups of laboratories, (OR), (1), Matriculation / Hr. Secondary/10+2 with Science 6 years experience in any of these groups of Laboratories as Lab. Assistant (OR) (1). Matriculation / Hr. Secondary/10+2 with Science having MLT Course with 3 years experience in any of these groups of the Laboratories as Lab. Asstt. Pay Scale-4500-125-7000 Age limit 21-30 yrs. (Relaxable for SC/ST/OBC/Govt. servants as per instructions/orders issued by Central Government.</i>

4. The petitioner duly received the admit card and appeared in the written examination, however, vide the impugned order, noted above, his candidature was rejected.

5. Learned counsel submitted that he was having all the requisite qualifications as per the advertisement and no duration has been

mentioned in the said advertisement, therefore, the impugned order issued by the respondents is arbitrary, illegal and the same needs to be set aside.

6. On the other hand, learned counsel for the respondents has drawn the attention of this Court to clause 24 of the advertisement, which is reproduced as under:-

“24. The Board makes provisional selection of the candidates on the basis of information and documents/certificates provided by the candidate in his/her application and recommends the same to the indenting department. Further the Appointing Authority i.e. the indenting department verifies and satisfied itself about the authenticity of documents/certificates and eligibility as per the Recruitment Rules before finally appointing the candidate. Therefore, the provisional selected candidate is conferred with no rights of appointment unless the Appointing Authority is satisfied after such inquiry as may be considered necessary that the candidate is suitable in all respects for appointment to the post.”

7. Learned counsel further submitted that as per the Recruitment Rules for the post of Technician, the eligibility criteria is Matriculation or equivalent qualification from the recognized Board; and Diploma in Medical Laboratory Technology with two years experience in Blood Bank. Since the petitioner did not fulfil the eligibility criteria, hence, his candidature was cancelled.

8. Ms.Sonia Sharma, learned counsel appearing on behalf of respondent No.1/ Govt. of NCT of Delhi has drawn the attention of

this Court to the order dated 08.01.2002 passed in W.P.(C) No. 3018/2000, wherein it is recorded as under:-

“ This petition was filed by Common Cause Society registered under the Societies Registration Act bringing to the notice of the Court the alleged gross irregularities existing in the Health Care System in the Safdarjung Hospital with respect to the training course in Medical Laboratory Technology. It was alleged that the course presently being conducted has not been approved by All India Council of Technical Education as per provisions of the All India Council of Technical Education Act, 1987. The course is also not recognized by the Department of Technical Education, Ministry of Human Resources Development. Therefore, it is prayed that directions be issued to the Respondents to immediately close the unrecognized and illegal course in the name of “In Service Training Course in Medical Laboratory Technology” running in the Safdarjung Hospital.

After notice Replies have been filed and are on the record and today Additional Affidavit of Dr. A.N. Sinha, Chief Medical Officer (Hospital Administrative) in the Department of Directorate General of Health Services, Ministry of Health and Family Welfare, Government of India, has been filed. It is stated in the meeting which was held on 10th April, 2001 a decision has been taken to update the knowledge of Laboratory personnel, but to continue to conduct Medical Laboratory Technology Diploma Course as per the guide-lines of All India Council for Technical Education. Suitable amendments to the Recruitment Rules of Laboratory Assistant should be recommended to the Ministry of Health and Family Welfare. It has been stated in the affidavit that the Medical Laboratory Technology Course of one year duration has been discontinued from current academic year and it has been assured that Safdarjung Hospital has prepared a separate syllabus and prospectus to

conduct two years Medical Laboratory Technology Diploma Course in the Hospital. It has submitted a proposal for the approval/recognition of two years Medical Laboratory Technology Diploma Course to All India Council for Technical Education. Proposal is stated to have been submitted to the Directorate General of Health Services for amendments in the Recruitment Rules so that only candidates qualified in Medical Laboratory Technology Diploma from recognized institutions approved by All India Council for Technical Education are considered for appointment to the post of Laboratory Assistant.

We treat the statement made in the Affidavit on record and in view of this statement the Petitioner states that the petition does not survive.

The Petition stands disposed of.”

9. Learned counsel has drawn the attention of this Court to the communication dated 05.02.2009 issued by Controller, Board of Technical Education (BTE), Government of NCT of Delhi, which is reproduced as under:-

“ With reference to your letter No.F.1(271)/LC/DSSSB/07/307, dated 20.01.2009 on the subject cited above, it is to inform you that In-Service Training Certificate course of (Medical Laboratory Technology) is not recognized course with the Board of Technical Education (BTE) and even the BTE do not hold any training/exam for the said course. However, the full time diploma course namely as diploma in Medical Laboratory Technology of three years duration is recognized with the BTE for that the BTE conducts the exam.”

10. She has also drawn the attention of this Court to the communication dated 29.08.2007, which is clarification regarding RRs of various posts. The same is reproduced as under:-

“ This is with reference to your office letter No.F.1(108)/CC-II/DSSSB/07/1632 dated 21.08.2007 regarding clarifications sought by you on certain points in the existing RRs for various paramedical posts. The point wise information/clarification is as under:-

1. This department recognizes the Diploma issued from the institutions recognized by the authorities mentioned below:-

- Board of Technical Education of respective states in India.*
- The All India Council for Technical Education (AICTE).*

2. The MLT course mentioned in the RRs of Lab Technician (Group III) is equivalent to Diploma in Medical Lab. Technology (DMLT).

3. You are requested to keep the recruitment process of the post of O.T. Technician pending till further request of this department as the matter is under review in this department.”

11. Vide communication dated 31.08.2007, whereby it is clarified regarding the post of Laboratory Assistant, which reads as under:-

“ Kindly refer to your letter No. F.CC/4/(23)/DSSSB/2001/05, dated 16.08.2001 on the subject cited above. It is clarified here that the duration of MLT Diploma Course as mentioned in our earlier

letter of even No. dated 22.6.2001 may be read as 2 years instead of 3 years.”

12. She has further drawn the attention of this Court to the provisional certificate issued by the Office of the Course Director, Medical Laboratory Technology (MLT), Safdarjung Hospital, New Delhi in favour of the petitioner, whereby it is certified that he being external candidate has successfully completed one year MLT Course in the month of March, 2000.

13. She submitted that the petitioner has completed only one year course as mentioned above, whereas, as per the eligibility criteria, the requirement is of minimum two years. Therefore, he was not eligible and has prayed that the instant petition may be dismissed.

14. I have heard the learned counsel for the parties.

15. Admittedly, the petitioner has completed one year Medical Laboratory Technology (MLT) Course from Safdarjung Hospital vide certificate dated 13.06.2002. It is also not disputed that in the advertisement dated 14.10.2006, the duration of the MLT Course, as noted above, was also not mentioned. However, the fact remains that as per clause 24 of the advertisement, it has been clarified that the appointment shall be made after seeing the eligibility as per the Recruitment Rules and the provisional selection would not confer any rights of appointment unless the Appointing Authority is satisfied on the suitability and eligibility of the candidate.

16. As per the Recruitment Rules for the post of Technician, the eligibility criteria is Matriculation or equivalent qualification from the

recognized Board and Diploma in Medical Laboratory Technology with two years experience in Blood Bank. Since the petitioner did not fulfil the eligibility criteria, therefore, the respondents rightly cancelled his candidature.

17. Moreover, this Court in the order dated 08.01.2002 passed in W.P. (C) No. 3018/2000, filed by Common Cause Society, wherein alleged gross irregularities existing in the Health Care System in the Safdarjung Hospital with respect to the training course in Medical Laboratory Technology. It was alleged that the Course conducted by the said Hospital had not been approved by the All India Council of Technical Education as per the provisions of the All India Council of Technical Education Act, 1987. It was further alleged that the Course was also not recognized by the Department of Technical Education, Ministry of Human Resources Development. Therefore, it was prayed that directions may be issued to the respondents to immediately close the unrecognized and illegal Course running in the said Hospital. On being the affidavit filed by the Medical Authorities, it is stated that the Medical Laboratory Technology (MLT) Course of one year duration had been discontinued from that academic year and assured the Court that a separate syllabus and prospectus has been prepared for conducting two years Medical Laboratory Technology Diploma Course in the Hospital.

18. In addition to above, vide communication dated 05.02.2009 issued by the Controller, Board of Technical Education (BTE), Govt. of NCT of Delhi, it is stated that In Service Training Certificate

Course of MLT was not recognized Course with the BTE and even the BTE do not hold any training/exam for the said Course. However, full time diploma Course, namely, Diploma in Medical Laboratory Technology of three years duration was recognized with BTE. For that BTE conducts the exam. Further, vide communication dated 31.08.2007, it has been clarified that duration of MLT Diploma Course would be two years instead of three years.

19. In view of the above discussion, since the petitioner was not eligible to be selected and there is no discrepancy in the order dated 22.06.2007, therefore, I am not inclined to interfere therewith.

20. Finding no merits in instant petition, the same is dismissed with no order as to costs.

CM No. 9823/2007

Since the petition has been dismissed, this application has become *infructuous*. The same is disposed of accordingly.

SURESH KAIT, J.

APRIL 01, 2013

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