

Court No. - 7

Case :- WRIT - A No. - 8712 of 2023

Petitioner :- Priya Thomas

Respondent :- Uttar Pradesh Public Service Commission Thru Secy. Prayagraj And Another

Counsel for Petitioner :- Sushma Shukla, Mukul Misra, Ninnie Shrivastava

Counsel for Respondent :- Raj Kumar Upadhyaya (R.K.Upadhyaya), Shubham Tripathi

Hon'ble Abdul Moin, J.

1. Heard learned counsel for the petitioner, Sri Raj Kumar Upadhyaya, learned counsel for respondent no.1, and Sri Shubham Tripathi, learned counsel for respondent no.2.

2. Learned counsels for all the parties state that the facts of the case have already been set forth in the order dated 07.11.2023, which, for the sake of convenience, is reproduced below:-

"1. Heard.

2. *The contention of learned counsel for the petitioner is that the petitioner had applied for the post of Staff Nurse/Sister Grade-2 (Female) in King Georges Medical University in pursuance to the advertisement issued by the Uttar Pradesh Public Service Commission for the said post. The advertisement was issued on 16.07.2021 and last date fixed for receipt of application was 16.08.2021. The petitioner succeeded in the written examination which was of 85 percent marks and the balance 15 percent marks were dependent on the experience. Apart from this, the petitioner was required to have herself registered or to produce the certificate in this regard with regard to registration with Uttar Pradesh Nursing and Midwife Council which the petitioner admittedly was not registered as of the last date fixed for receipt of application i.e 16.08.2021. It is contended that the respondent no. 1 repeatedly required to the petitioner to get the registration which has only been done on 11.05.2023. However, despite that the petitioner has not been appointed.*

3. *Raising a grievance to her non appointment, the contention of learned counsel for the petitioner is that the advertisement itself indicates that the petitioner should be a registered "A" Grade Nurse and Midwife with a State Nursing Council or*

equivalent qualification for Male Nurses and as the petitioner is registered with the Kerala Nursing and Midwife Council consequently, the same has to be considered as sufficient compliance of the conditions contained in the advertisement itself.

4. Responding to that, the contention of learned counsel for the respondent no.1 is that Rule 10.1.4 of the Uttar Pradesh Subordinate Nursing (Non-Gazetted) Service (Fourth Amendment) Rules, 2016 mandatorily requires a registration from the Uttar Pradesh Nursing Council and even if this fact was not explicitly indicated in the advertisement dated 16.07.2021 then it being a settled proposition of law that an advertisement cannot be against the statutory rules consequently, the said provision has to be read in the advertisement itself.

5. However, as the appointment is to be made in the King Georges Medical University as such, Sri Shubham Tripathi, learned counsel for the respondent no. 2 may seek instructions as to whether the aforesaid condition is required for appointment to the post of Sister Grade-2 in the King Georges Medical University and as to whether any vacancy is still available for the aforesaid post in the KGMU.

6. Let instructions be obtained within two weeks.

8. List thereafter as fresh."

3. Today, Sri Upadhyaya, learned counsel for respondent no.1, states that as a final decision is yet to be taken by respondent no.1 and the candidature of the petitioner has still not been rejected and further the petitioner has got herself enrolled/registered with the U.P. Nursing Council on 11.05.2023 as such it is prayed that respondent no.1 be directed to take a final decision in the matter within shortest possible time.

4. Considering the aforesaid, the writ petition is disposed of.

5. It is provided that respondent no.1 shall proceed to consider the grievance of the petitioner as indicated above and shall pass a speaking and reasoned order expeditiously say within a period of three weeks from the date of receipt of a certified copy of this order.

Order Date :- 30.11.2023

A. Katiyar