



2026:UHC:80-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

**HON'BLE JUSTICE SRI MANOJ KUMAR TIWARI
AND
HON'BLE JUSTICE SRI SUBHASH UPADHYAY**

03 January, 2026

Special Appeal No.319 of 2025

Om Prakash & Others -----Appellants

Versus

State of Uttarakhand & Others -----Respondents

With

Special Appeal No.299 of 2025

Pankaj Mohan Dhyani & Another -----Appellants

Versus

State of Uttarakhand & Others -----Respondents

With

Special Appeal No.315 of 2025

Vinod Kumar -----Appellant

Versus

State of Uttarakhand & Others -----Respondents

Presence:-

Mr. Dushyant Mainali, learned counsel for the appellants in SPA No.319/2025

Mr. Pawan Sanwal, learned counsel for the appellants in SPA No.299/2025

Mr. Susheel Kumar, learned counsel for the appellant in SPA No.315/2025

Mr. S.S. Chaudhary, learned Standing Counsel for the State/respondent nos.1 and 2

Mr. Gaurav Nagpal, learned counsel holding brief of Mr. Ramji



Srivastava, learned counsel for respondent no.3
Ms. Seema Sah, learned counsel for Uttarakhand Pharmacy Council
Mr. Bhagwat Mehra, learned counsel for the intervener.

The Court made the following:

COMMON JUDGMENT: (per Hon'ble Justice Sri Manoj Kumar Tiwari)

1. These intra-court appeals are directed against the judgment dated 25.08.2025 rendered by learned Single Judge in WPSS No.2511/2024 and connected matters, whereby the writ petitions filed by the appellants, seeking a mandamus to allow them to appear in the selection for appointment as Pharmacist in Labour Department, was dismissed.

2. As per the applicable Rules, a candidate must possess Diploma in Pharmacy for appointment as Pharmacist in ESI Corporation run hospitals. Admittedly, appellants-writ petitioners possessed Bachelor's Degree in Pharmacy (B. Pharma) and thus they do not meet the eligibility condition as mentioned in the Rules. Appellants-writ petitioners argued before the learned Single Judge that since B. Pharma is a higher qualification than Diploma in Pharmacy, therefore, right to be considered for appointment cannot be denied to them and their candidature has to be accepted for appointment as Pharmacist.



3. Learned Single Judge by relying upon a judgment rendered by Hon'ble Supreme Court in the case of "**Zahoor Ahmed Rather and others v. Sheikh Imtiyaz Ahmad and others**" reported in **(2019) 2 SCC 307** held that merely by possessing a qualification which may be treated as higher than the one required by the Rules, one would not become eligible. Para 27 of the judgment rendered in Zahoor Ahmed Rather (supra) is reproduced below:-

"27. While prescribing the qualifications for a post, the State, as employer, may legitimately bear in mind several features including the nature of the job, the aptitudes requisite for the efficient discharge of duties, the functionality of a qualification and the content of the course of studies which leads up to the acquisition of a qualification. The State is entrusted with the authority to assess the needs of its public services. Exigencies of administration, it is trite law, fall within the domain of administrative decision-making. The State as a public employer may well take into account social perspectives that require the creation of job opportunities across the societal structure. All these are essentially matters of policy. Judicial review must tread warily. That is why the decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission, (2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] must be understood in the context of a specific statutory rule under which the holding of a higher qualification which presupposes the acquisition of a lower qualification was considered to be sufficient for the post. It was in the context of specific rule that the decision in Jyoti K.K. [Jyoti K.K. v. Kerala Public Service Commission,



(2010) 15 SCC 596 : (2013) 3 SCC (L&S) 664] turned."

4. We concur with the view taken by learned Single Judge. Law is well settled that when the Rules prescribe a qualification for appointment to a particular post, then anyone who does not possess that qualification cannot be treated as eligible. In the applicable rules, the only qualification prescribed is Diploma in Pharmacy and there is nothing to indicate that a candidate having any other qualification, declared as equivalent to Diploma in Pharmacy, would also be treated as eligible. Law is well settled that when statute requires a thing to be done in a particular manner that thing must be done in that manner or not at all.

5. Since eligibility of a candidate has to be determined with reference to the applicable Rules and writ-petitioners are not eligible as per the Rules applicable for the post of Pharmacist, therefore, learned Single Judge was justified in refusing to grant the prayer as made by the writ-petitioners in the writ petition, thus, we do not find any scope for interference.



6. Learned counsel for the appellants-writ petitioners then submits that the State Government had given an assurance in Writ Petition (S/B) No.486 of 2021 that the matter of amendment in the applicable Rules is under consideration.

7. In that view, we permit the appellants-writ petitioners to make representation to the State Government. If representation is made by them within two weeks from today, State Government shall take decision thereupon, as per law, within six weeks thereafter. Amendment, if any, carried out will apply only prospectively and will not be applicable to the pending selection.

8. With the aforesaid observations and direction, appeals stand disposed of finally.

MANOJ KUMAR TIWARI, J.

SUBHASH UPADHYAY, J.

Dt: 03.01.2026

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