

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP-18195-2017 (O&M)
Date of decision:17.08.2017**

Rupali

... Petitioner

Vs.

State of Punjab & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Karnail Singh, Advocate for the petitioner.

Mr. Manish Dadwal, Advocate for respondent No.3/University.

...

TEJINDER SINGH DHINDSA, J.

Vide advertisement dated 15.12.2016 (Annexure P-1) issued by Baba Farid University of Health Sciences, Faridkot, applications were invited for recruitment to 140 posts of Medical Laboratory Technician Grade-2 under the Health Department, State of Punjab.

Petitioner claiming herself to have qualified the B.Sc. (Medical Laboratory Technology) degree, applied for the post in question under the reserved SC (M&B) category. Petitioner appeared in a written test under Roll No.601486 and in the result declared, she has secured 440 marks.

The instant petition has been filed raising a grievance that in spite of securing 3rd rank in her category and for which 10 posts had been reserved, she has been denied appointment to the post of Medical Laboratory Technician Grade-2.

Counsel would submit that at the stage of counselling in which

the petitioner had duly appeared, the petitioner has been informed that she does not possess the basic and professional qualification inasmuch as she has not undergone internship prior to the last date for submission of application forms stipulated in the advertisement. Counsel argues that the imposition of the condition of undergoing internship is alien to the advertisement and which virtually amounts to changing the rules of the game after initiation of the recruitment process vide advertisement dated 15.12.2016 (Annexure P-1).

The advertisement dated 15.12.2016 and in response to which the petitioner had submitted her application is appended and placed on record at Annexure P-1. The basic and professional qualifications laid down for the post of Medical Laboratory Technician Grade-2 were in the following terms:

“Basic and professional qualification:

- i) Should have passed the Senior Secondary Part-II Examination with Science (Physics, Chemistry, Biology) or its equivalent from a recognized University or institution and*
- ii) Should possess a diploma in Medical Laboratory Technology of two years from a recognized university or institution;*

OR

Should possess a diploma in Medical Laboratory Technology of three years from a recognized university or institution after passing Matriculation examination with science followed by one year work experience after diploma;

OR

Should possess a degree of B.Sc. (Medical Laboratory

Technology) from a recognized university or institution.”

The specific condition in the advertisement as regards possession of requisite qualifications was in the following terms:

“The candidate must possess the requisite qualification on or before the date of submission of online applications from the recognized University/Board.”

The last date for submission of online applications was stipulated as 30.12.2016.

Learned counsel to demonstrate the eligibility of the petitioner placed heavy reliance upon copy of the degree i.e. Bachelor of Science (Medical Laboratory Technology)-B.Sc. awarded by Baba Farid University of Health Sciences issued on 11.05.2017 at Annexure P-3. Counsel submits that a reading of such degree would clarify that the petitioner has obtained the degree of Bachelor of Science (Medical Laboratory Technology)-B.Sc. and has passed the examination of said degree held in May-June, 2016. It has been urged that in the light of such degree, petitioner had already obtained the requisite and professional qualification prior to the last date of submission of application form i.e. 30.12.2016.

Yet another submission raised by counsel is that in the advertisement, which provided the basic and professional qualifications, one of the qualification prescribed was for a candidate to possess the diploma in Medical Laboratory Technology of 2 years from a recognized University or Institution. It is argued that the petitioner by virtue of the degree at Annexure P-3 i.e. Bachelor of Science (Medical Laboratory Technology)-

B.Sc., which is a 3 years course, possesses a higher qualification than the diploma and as such, could not have been denied appointment to the post in question in spite of having secured a sufficiently high ranking in the written examination.

During the course of hearing, a query was put to the counsel with regard to the petitioner having undergone internship. In response, counsel would refer to an internship certificate dated 20.04.2017 issued by the Principal, Guru Gobind Singh Medical College, Faridkot at Annexure P-4 and which clearly reflects that the petitioner has successfully completed the compulsory internship training over a period of six months commencing from 12.10.2016 till 10.04.2017. Counsel having been confronted with a situation, whereby, the internship had been completed after the last date of submission of application form, response was that internship is over and above the degree and in any case, is not part and parcel of the basic and essential qualification of the Bachelor of Science (Medical Laboratory Technology)-B.Sc. 3 years degree.

To have clarity in the matter, Mr. Dadwal, who is the standing counsel for Baba Farid University of Health Sciences was requested to complete instructions and hearing was deferred to the post lunch session.

Upon resumed hearing in the post lunch session, Mr. Dadwal has made available for perusal of this Court the relevant Ordinance issued by the University governing the Bachelor of Science Degree (Medical Laboratory Technology) and a copy thereof, was even furnished to counsel for the petitioner. Clauses 1, 12 and 13 of the Ordinance would be relevant for the controversy at hand and reproduced hereunder:

“Clause 1. Duration of Course

Duration of Course shall be three and half years including six months Internship.

Clause 12. Internship

After successfully passing third year B.Sc. (M.L.T.) examination the students shall undergo six months compulsory rotatory Internship as follows:

Sr. No.	Department	Period of Internship
1.	Biochemistry	One & Half Month
2.	Microbiology	One & Half Month
3.	Pathology including Cytology and Immunopathology	One & Half Month
4.	Haematology including blood transfusion and Clinical Pathology	One & Half Month

Clause 13. Award of Degree

On successful completion of six months compulsory rotatory internship, duly certified by the Principal of the College, the students shall be awarded the Degree of Bachelor of Science (Medical Laboratory Technology)-B.Sc. (M.L.T.)”

A conjoint reading of Clauses 1, 12 and 13 would make it clear that the duration of B.Sc. (Medical Laboratory Technology) course is 3½ years including 6 months internship. Clause 12 stipulates that after successfully passing the 3 years B.Sc. (Medical Laboratory Technology) Examination, the students shall undergo 6 months compulsory rotatory internship. Clause 13 of the Ordinance virtually seals the issue and regulates the award of degree. It is stipulated therein that upon successful completion of 6 months compulsory rotatory internship, duly certified by the Principal of the College, the students shall be awarded the degree of Bachelor of

Science (Medical Laboratory Technology)-B.Sc. (M.L.T.).

Even as per the pleaded case of the petitioner herself, after passing the 3rd year B.Sc. (M.L.T.) Examination, which was conducted in May-June, 2016, petitioner had successfully completed the 6 months rotatory internship on 10.04.2017 and consequence thereupon, she has been awarded the degree of Bachelor of Science (Medical Laboratory Technology)-B.Sc. (M.L.T.) on 11.05.2017 (Annexure P-3).

There can be no scope of doubt that 6 months rotatory internship, as such, is part and parcel of the Bachelor of Science Degree (Medical Laboratory Technology) that was one of the basic and professional qualification stipulated in the advertisement dated 15.12.2016 (Annexure P-1) and in response to which the petitioner had submitted her application. After completion of internship, the essential degree towards possession of basic and professional qualification was awarded to her only on 11.05.2017. The last date for submission of application forms was 30.12.2016. The stipulation in the advertisement was that the candidate must possess the requisite qualification on or before the last date for submission of online application forms.

Under such circumstances, the petitioner was clearly ineligible as on 30.12.2016 for the reason that she had only passed the 3rd year Examination of B.Sc.-M.L.T. in May-June, 2016 but had completed the compulsory rotatory internship only subsequent to the last date for submission of application form i.e. in April, 2017.

At this stage, a reference may be made to the judgment of the Hon'ble Supreme Court of India in **Bhupinderpal Singh & others Vs. State**

of Punjab, 2000 (2) SCC 826, wherein, a similar question in respect of acquiring eligibility was considered and it was held that where the cut of date for acquiring the eligibility is prescribed under the statutory rules, the same shall prevail and where cut of date is mentioned in the rules, the cut of date notified in the advertisement is to be treated as the date for acquiring eligibility and in the absence of any such stipulation in the statutory rules or advertisement, the last date for receipt of application is to be considered as the last date for acquiring eligibility.

Even the submission as regards petitioner possessing the higher qualification than a diploma is being noticed only to be rejected. As has been held herein above, the degree qualification together with internship was completed by the petitioner only in the month of April, 2017. The relevant date in the facts of the present case was 30.12.2016 i.e. the closing date for submission of online application forms. As on such date the petitioner did not have the degree of B.Sc. (Medical Laboratory Technology).

For the reasons recorded above, this Court does not find any infirmity in the action of the respondent/authorities in having declined to the petitioner appointment to the post of Medical Laboratory Technician Grade-2.

Petition is dismissed.

17.08.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

Note: (i)	Whether speaking/reasoned?	Yes
(ii)	Whether Reportable?	Yes